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CURRENT TOPICS

The Birthday Honours

A NUMBER of names well known in the law figure in the list of Birthday Honours published on 9th June. They include Mr. A. S. COMYNS CARR, K.C., Mr. C. H. JENKINSON, Deputy Keeper of the Public Records, Mr. J. R. HOWARD ROBERTS, Clerk of the L.C.C., Mr. K. R. SWAN, K.C., and Professor P. H. WINFIELD, all of whom are created knights bachelor. To them, and to others whom there is no space to mention here, we offer our congratulations. A full list of the honours of legal interest will appear in our next issue.

Two Judges

DURING the last week two veterans of the bench, each typical in his own sphere of the high standard set by British justice, have passed away, leaving an honourable memory behind them. Sir STANLEY FISHER, who had seen service as puisne judge of the Supreme Court of Cyprus, Chief Justice of Trinidad and Chief Justice of Ceylon, was eighty-two when he died on 28th May. He had been in retirement since 1930. He was called to the Bar in 1890. A retired member of the English bench, Mr. E. C. P. BOYD, died on 30th May at the age of seventy-seven, after a retirement of over seven years. From 1933 to 1941 he was well known as the metropolitan police magistrate at Marlborough Street, having previously sat at Greenwich and West London. Like other able judges, Mr. Boyd graduated through the South-Eastern Circuit and the London Sessions and was appointed Treasury Counsel in 1912. He was appointed to the Bench in 1916.

The Worshipful Company of Solicitors of the City of London

THE notice to members of the fifth annual general meeting of Liverymen and Freemen of the Worshipful Company of Solicitors of the City of London, to be held on 29th June, 1949, contains the report of the Court of Assistants for the year 1948–49. It states that there has again been a very satisfactory increase in the membership of the company, from 235 on reconstitution of the company in 1944 to 360 in 1948 and 372 in 1949, in addition to which four apprentices are serving under apprenticeship indentures to liverymen of the company. The honour of knighthood conferred in the New Years Honours on Sir ANTHONY PICKFORD (Past Master) and the selection of Mr. H. S. SYRETT (Past Master) as Deputy for Coleman Street Ward have given great satisfaction to their colleagues on the Court. For the second year in succession a member of the Court has been elected Chairman of the City Lands Committee, which carries with it the title of Chief Commoner, Mr. R. T. D. STONEHAM, C.C., succeeding Mr. Deputy HUMPHREY MORRIS, who held the office last year. The congratulations of the Court have been extended to Mr. Stoneham on his appointment to this important office. On Solicitors' Remuneration, the Landlord and Tenant (Rent Control) Bill, the Removal of Government Departments from London, Detention for Questioning, the Legal Aid Scheme, and Stock Exchange Commissions, the Court made representations in the proper quarters. The question of applying for the incorporation of the company by royal charter is under consideration by the Court. This will bring the company into line with almost all the other City Livery Companies.

Stamp Duty on Conveyances

SOLICITORS have lately been exempted from an unjust burden of stamp duty and can therefore sympathise with the increasing ranks of house-purchasers who find this imposition a cruelty apparently callously superimposed on an inflated price. Mr. H. GEARING, in a letter to *The Times* of 4th June, suggests that it would be an encouragement to thrift if the stamp duty on conveyances, which was raised to £2 per cent. in 1947 (not "during the war," as stated in his letter), could now be reduced to a more reasonable level. The high stamp duty, he writes, was originally fixed in an attempt to capture some of the capital profits being realised on the sale of old properties, but as these fees are paid by the purchaser and there appears to be little indication of a substantial reduction of prices in the near future, "it is high time that consideration should be given by the Revenue and the professional societies concerned to a reduction in the costs of routine conveyancing and recording of properties of modest elevation." The writer has in this last sentence inserted an implied complaint against the high cost of conveyancing. At a time when solicitors' earnings are on the average lower than those of other professions, and nevertheless they are voluntarily forgoing part of their legitimate costs, it is wrong, we submit, to ask them to make further heavy sacrifices to ease a burden which should be shared by the public. If a case has been made out for cheaper conveyancing in the public interest, then it is for the public to make the sacrifice necessitated by a reduction of stamp duty.

Criminal Justice Act, 1948: Probation Provisions coming into force

On 1st August next the last main group of provisions of the Criminal Justice Act, 1948, those relating to probation, will become operative. The Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order, 1949 (S.I. No. 1045), appoints this date for the coming into force of ss. 3–12 and Sched. I (probation and discharge), ss. 45–47 and Sched. V (administrative arrangements for probation), s. 49 (remand homes), s. 74 (application to supervision orders of certain provisions relating to probation), s. 75 (power to order detention in a remand centre under s. 67 of the Children and Young Persons Act, 1933) and certain supplementary provisions. We hope to publish shortly an article describing the newly operative provisions in more detail.

Drafting of the Rent Acts

An important and useful corrective to some of the more hasty adverse criticisms from the bench of the drafting of the Rent Restrictions and other Acts was given by Lord Justice Denning in *Seaford Court Estates, Ltd.* v. *Asher*, which was reported in *The Times* of 2nd June. His lordship said that "it was not within human powers to foresee the manifold sets of facts which might arise; and, even if it were, it was not possible to provide for them in terms free from all ambiguity. The English language was not an instrument of mathematical precision. Our literature would be much the poorer if it were. That was where the draftsmen of Acts of Parliament had often been unfairly criticised. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, lamented that the draftsmen had not provided for this or that, or had been guilty of some other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appeared, a judge could not simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do that not only from the language of the statute but also from a consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy: and then he must supplement the written word so as to give 'force and life' to the intention of the Legislature." This is a view which has perhaps waited too long to be expressed by a great judicial authority. No one could ever have put it more neatly and clearly.

Town and Country Planning Claims: Minerals subject to Commercial Interests on 1st July, 1948

The Central Land Board announce that a regulation under s. 81 of the Town and Country Planning Act will be placed before Parliament for approval (A) to modify the provisions of s. 63 of the Act (the *de minimis* provisions) so that a payment out of the £300m. fund should not be excluded in respect of a claim where (*a*) a mineral undertaker had an interest in the land to which the claim relates on 1st July, 1948; and (*b*) the development value of the interest in land to which the claim relates is wholly attributable to the prospect of winning and working minerals; and (*c*) the area of the land to which the claim relates exceeds 25 acres; and (*d*) the development value of the interest in land to which the claim relates exceeds £500; (B) to facilitate the making of claims for payment under the Treasury Scheme in the case of mining leases subsisting on 1st July, 1948, so that where a claim is duly made by any one party to a mining lease, a claim shall be deemed to have been made by every other party to the lease. The new time limit for certain mineral claims is to be the 31st December, 1949. The new time limit applies to all claimants who would have properly answered "Yes" to question 17 on form S.1. It has been represented that in the case of some mineral undertakings the land and buildings associated with the winning and working of minerals cannot, for the purpose of making claims, conveniently be separated from land and buildings used for processing minerals. It has therefore been decided that the extended time limit shall apply to any claim in respect of (i) an interest in land to which a mineral undertaker was entitled on 1st July, 1948; or (ii) an interest in land in respect of which the owner was entitled on 1st July, 1948, to receive a rent, royalty or other similar payment from a mineral undertaker under a mining lease as defined by the Act; provided that the development value of the interest is attributable to the prospects of development consisting either of the winning and working of minerals in that land or of operations for the erection or extension of buildings, plant or machinery to be used wholly or mainly in connection with either the winning and working of minerals or the processing of minerals. It is stressed that all other claims, including claims for "dormant" minerals (i.e., minerals in which no mineral undertaker had an interest on 1st July, 1948), must still be submitted by 30th June, 1949. Claimants to whom the extended time limit applies will be required to fill in both the ordinary claim form S.1 and a supplementary form S.1/M containing additional questions. The forms S.1/M will be available in all regional offices of the Central Land Board in England and Wales from 15th June, 1949, onwards.

Profits of Subsidiary Companies and Dividends of Holding Companies

The Share and Loan Department of the Stock Exchange issued a notice on 30th May setting forth legal advice which, it was stated, had been given to certain holding companies, to the effect that the new law laid down in the Companies Act, 1948, prevents holding companies from distributing as dividends profits earned by their subsidiaries before the date of the acquisition of the shares. In view of this, the Share and Loan Department state that in future, when application is made for the quotation of securities of holding companies, the Share and Loan Department will require to be satisfied that, in arriving at any estimate in a prospectus, offer for sale or public advertisement of profits or dividends for the first financial year, due account has been taken of the fact that profits earned by subsidiaries before acquisition of their shares by a holding company will not be available for distribution as dividend of the holding company. It is not surprising that the practice before the Act was to distribute such profits, even though lawyers might take the somewhat technical view that once they are acquired by the holding company they become capital and therefore undistributable as dividend. On the other hand, the holding company continues the business of its subsidiary and it seems hard that an apparent technicality should prevent it from doing what every business concern does, namely, to distribute its past profits as dividends.

The Accounts Provisions of the Companies Act, 1948

The opinion of an accountant on the new accounts provisions of the Companies Act, 1948, and its Schedules, was given by Sir Frederick Alban, President of the Society of Incorporated Accountants at the annual general meeting of the society (*The Times*, 30th May). The gist of his criticism was that the obligations of the company may have been set forth in too great detail in the Act. The result is often an elaboration of particulars, as well as a mass of explanatory notes, which cannot readily be assimilated or understood by those lacking an expert knowledge of accounting methods. In this country, marked improvements have taken place in the method of setting out accounts, but he thought that the next stage in the continuous evolutionary process is towards simplification, or possibly the publication of detailed statutory accounts and a simplified form, showing the same position, which can be more readily understood by shareholders. It will be remembered that the Incorporated Accountants' Society was in the forefront in pressing proposals for reform, particularly in the direction of greater definition of the profit and loss account. The President now frankly admits that short experience of the Act tends to show that accounts are so complicated that the public do not now know what they are getting. This is clearly a case where something more should be done to help the inexpert than is done to help the expert, and the best method of doing this is not to sacrifice greater disclosure to simplification, but to add such simplified explanations as may be deemed necessary.

THE MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT, 1920

THIS Act, passed shortly after the termination of the first world war, has gained greatly in importance since the end of the second. Many marriages were contracted during the war between foreign or dominion troops visiting this country and English girls, and between our own troops visiting other lands and girls they met there, and whilst a high proportion of such unions has no doubt turned out happily, nevertheless there have been many instances where the marriages have broken down, sometimes for no better reason than that each party has preferred to return to his or her native land. For this reason, questions of the mutual enforceability of maintenance orders between this and other countries have become a matter, if not of everyday occurrence, at least of some importance to many solicitors who deal with matrimonial matters.

Mutual enforceability depends, of course, upon mutual legislation in the countries concerned, and no such legislation exists between this country and any foreign country outside the British Empire—or, as some people now prefer to call it, the British Commonwealth of Nations. Within the Empire, however, the Act of 1920 operates wherever it has been applied by Order in Council after reciprocal legislation by the part of the Empire concerned; it now applies to by far the greater part of the Empire, and a list of the places to which it extends is printed on pp. 132–133 of "Lieck and Morrison on Domestic Proceedings"; to this list the Province of Ontario, Canada, has since been added by Order in Council dated 29th March, 1949.

The Act provides for the reciprocal enforcement of "maintenance orders," and this expression is defined in s. 10; it includes not only orders for periodical payments towards the maintenance of wife or child under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925, but also under the Guardianship of Infants Acts, 1886 and 1925; but it does not include payments due under an affiliation order.

Broadly speaking, the Act provides for two separate and distinct contingencies; first, where it is sought to enforce an order made by a court at a time when both parties were within its jurisdiction; and secondly, where one party seeks to obtain an order against another who, though within the scope of the Act, is not within the jurisdiction of the same court as the complainant. In the first contingency, the existing order is to be registered with the enforcing court, and in the second a provisional order may be made by the complainant's court and confirmed by the respondent's court.

As to the registration of orders, the Act provides for the transmission of a certified copy of the order from the court which made it to the court which has to enforce it; the channel of transmission is via the Governor of the part of H.M. dominions concerned and the Home Secretary, or vice versa; and the order, once registered, is enforceable from the date on which it was made, or the date specified in the order, as the case may be.

For simplicity of explanation, it is proposed to instance, in the remainder of this article, an application by a wife for an order against her husband under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925; it will be assumed that both are in countries to which the Act extends, and the courts having cognisance of the matter will be referred to as "the wife's court" and "the husband's court" respectively. It should, however, be pointed out that so far as the *registration* of orders is concerned the Act is not limited to orders made by courts of summary jurisdiction, but applies equally to the superior courts (s. 1 (2)).

When the wife is resident in England she may apply to the appropriate court of summary jurisdiction in this country, and she must prove to the court that her husband resides in a part of H.M. dominions outside the United Kingdom to which the Act extends. The court is then empowered, after hearing the evidence, to make any order which it would have had power to make if a summons had been served on the defendant in the ordinary way and he had failed to appear in answer to it at the hearing; the order, however, will be provisional only, and of no effect unless and until confirmed by the husband's court.

The evidence of each witness is taken down in writing in deposition form, and read over to and signed by him. The marriage certificate of the parties and birth certificates of any dependent children should whenever possible be produced and marked as exhibits. If a provisional order is made, it is the duty of the court to send to the Home Secretary, for transmission to the governor of the appropriate dominion, the original depositions and exhibits, a certified copy of the provisional order, and a statement of the grounds on which the order might have been opposed if the defendant had been duly served with a summons and had appeared at the hearing. The court must also forward for transmission to the dominion concerned all available information as to the whereabouts of the defendant and for the purpose of his identification, and it is therefore important that the depositions should contain as complete a description of him as is possible and, where this can be done, a photograph should be exhibited.

The husband's court, on receipt of the copy provisional order and accompanying documents, may remit the case back again to the wife's court for further evidence if not satisfied with that forwarded in the first instance; as the delay in course of transmission is often considerable, it is therefore important to see that the evidence included in the depositions and exhibits is as complete as possible. On remission back to the wife's court, the latter must give notice thereof to the wife, and after hearing the further evidence required may either rescind the order, or once more forward the papers to the Home Secretary for transmission as before.

The husband's court may, in due course, after hearing such evidence as is called by or on behalf of the husband, either confirm, modify, or refuse to confirm the provisional order. In practice, the amount of the periodical payments provisionally ordered by the wife's court is frequently modified by the husband's court, which obviously may have more exact and recent information before it as to the husband's means than is available to the wife's court.

Once the order, whether modified or not, has been confirmed, it becomes effective and enforceable as such from the date of confirmation. It may subsequently be varied or rescinded by the wife's court, but a varying or rescinding order will not become effective unless and until confirmed in the same manner as the original order. When, therefore, the husband, being out of the United Kingdom, wishes to apply for a variation or rescission of the order, he cannot apply to the dominion court but must make application in the wife's court, though this can be done by a solicitor acting on his behalf.

Similarly, where the wife is in a part of the dominions to which the Act extends and has obtained a provisional order there against her husband resident in the United Kingdom, provision is made for the confirmation of the order by the appropriate court here. The same documents have to be forwarded through the governor of the dominion and the Home Secretary to the husband's court, and the latter then issues a summons to the husband calling upon him to show cause why the provisional order should not be confirmed. At the hearing the defendant may raise any defence which would have been available to him in the original proceedings if he had been a party to them, but no other defence, and the certificate of such grounds forwarded by the wife's court will be conclusive as to the grounds stated in it, although it is open to the defendant to prove that other grounds not mentioned in the certificate also exist (*Re Wheat* [1932] 2 K.B. 716). The court has the same power to remit back for further evidence as is mentioned above,

and may confirm, modify, or refuse to confirm the order in the same way as before. The limit of £2 a week for the wife and 10s. a week for each child does not apply, the court having power to order payment of any periodical amounts within the jurisdiction of the court making the provisional order, and to avoid the possibility of this limit being exceeded by reason of subsequent fluctuations of the exchange rate, it is usual to confirm the order in the currency of the dominion where the provisional order was made, and not to convert the amount into sterling.

When an order of a United Kingdom court has been registered, or a provisional order here has been confirmed under the Act, a practical difficulty may sometimes arise as to its enforcement. The evidence required in proof of arrears under the order depends of course on the law of the country of the enforcing court, but in the absence of information as to what that law requires it is usual for an English court to transmit a certificate or statutory declaration as provided by s. 28 (4) of the Criminal Justice Administration Act, 1914.

E. G. B. T.

IMPERFECT CONTRACTS—I

"SUBJECT TO CONTRACT"

A REASONABLE answer to the question "When is a contract not a contract?" might be "When it is 'subject to contract.'" Quite plainly, someone has omitted to define his terms. Yet estate agents and others frequently talk of a preliminary contract when they mean a sort of halfway stage in negotiations which have not then become legally binding but which have reached a position from which, they trust, the parties will not resile except for good reason. And business men, purporting to make a contract, are often content to leave over an essential term for future agreement between them. In either case one party may have evidenced his earnestness by making a deposit of money, in the case of a purchaser of land usually as small in amount as he dares to suggest, but no man is bound by a mere earnest if he has reserved to himself a legal avenue of escape. Some agents still require to be disabused of the notion that payment of a "preliminary deposit" necessarily clinches a bargain.

The whole course of the preliminary negotiations for the sale and purchase of house property presents a familiar aspect, in a rather specialised field, of a feature of the law of contract which is in fact universal. The principle involved may be put in the words of Lord Greene, M.R., in a real property case (*Eccles* v. *Bryant* [1948] Ch. 93): "Parties become bound by contract when and in the manner in which they intend and contemplate becoming bound." The existence of an intention, on both sides, to create a legal relationship was always fundamentally necessary in the constitution of a contract: if those authorities are right who say that consideration is no longer necessary in every case, it is this intention which sometimes excuses the absence of consideration. The parties' intention is, of course, to be read from the documents they sign and from their contemporaneous acts as a whole, and it suggests a wrong approach to regard any one phrase as necessarily implying either a complete contract or a conditional agreement. Nevertheless, the form of words in common use, "subject to contract," is certainly one of the plainer indications that the offer or acceptance to which it is attached is intended to be only conditional. The same may be said of the stipulation "subject to surveyor's report," which was held in *Marks* v. *Board* (1930), 46 T.L.R. 424, to afford an escape for the vendor, though the term was inserted obviously for the purchaser's protection. All such expressions are, however, forgiving the phrase, subject to context.

"It appears to be well settled by the authorities," Parker, J., said in *Von Hatzfeldt-Wildenburg* v. *Alexander* [1912] 1 Ch. 284, "that if the documents or letters relied on as constituting a contract contemplate the execution of a further contract between the parties, it is a question of construction whether the execution of the further contract is a condition or term of the bargain or whether it is a mere expression of the desire of the parties as to the manner in which the transaction already agreed to will in fact go through. In the former case there is no enforceable contract either because the condition is unfulfilled or because the law does not recognise a contract to enter into a contract. In the latter case there is a binding contract and the reference to the more formal document may be ignored. The fact that the reference to the more formal document is in words which according to their natural construction import a condition is generally if not invariably conclusive against the reference being treated as the expression of a mere desire." In *Chillingworth* v. *Esche* [1924] 1 Ch. 97, the words construed as importing a condition were: "subject to a proper contract to be prepared by the vendor's solicitors." Lord Hanworth, M.R., in solving the problem of construction of these words in their context said that the word "proper" must be given its full meaning; but a comparison with *Branca* v. *Cobarro* [1947] K.B. 854, serves to emphasise the danger of isolating any word in matters of construction.

The document which, in *Branca* v. *Cobarro*, was held by the Court of Appeal to constitute an immediate binding contract set out certain terms for the sale by the defendant to the plaintiff of the lease and goodwill and appliances of a mushroom farm. Having named the price and described the property, it set out the dates of payment of the purchase price in three instalments with a forfeiture clause in default of payment of the later instalments. Then followed the sentence, "This is a provisional agreement until a fully legalised agreement drawn up by a solicitor and embodying all the conditions herewith stated is signed." The words "fully legalised agreement" were taken by Lord Greene to mean a formal agreement. Though this is not quite the same as a "proper" contract, the distinction is surely too subtle for the language of many who to-day negotiate sales of property. The crucial word in *Branca* v. *Cobarro* is, according to the Court of Appeal, "until," which, as Lord Greene says, is not expressive of a condition or stipulation, as are the more familiar words "subject to." "Provisional" is not the same as "tentative," but is here to be linked up with "until." Asquith, L.J., reminds us that a provisional agreement has in other circumstances been held to be inoperative until the performance of a condition precedent—an observation which underlines once more the paramount importance of the context in matters of interpretation. In the result the court allowed the appeal from an order directing the return of Mr. Branca's deposit.

It was said above that the parties' intention was to be gathered not only from a true interpretation of the documents but also from the contemporaneous acts of the parties. This proposition may be illustrated in one of its aspects by a consideration of the point of time at which a contract becomes binding. In the case of formal contracts for the sale and purchase of land, this does not generally depend solely on the physical fact of signature. When the plaintiffs in *Chillingworth* v. *Esche*, *supra*, repudiated the transaction, the terms of the formal contract had already been settled between the solicitors on both sides, and the engrossment of the defendant's part had been signed by him. *Eccles* v. *Bryant*, *supra*, goes further still, for there not only had both parties signed their respective parts of the contract, but the purchaser's part had actually been posted to and received by the vendors' solicitors. The vendors, however, then decided not to proceed and did not send their part in exchange. They were sued by the purchaser for specific performance. The Court of Appeal reversed the order of Vaisey, J., who had granted the plaintiffs their decree. Lord Greene pointed out that in such contracts there is a well-known common and customary method of dealing, namely, by exchange, and that anyone who

contemplates that method cannot contemplate the coming into existence of a binding contract before the exchange takes place. The exchange " is the crucial and vital fact which brings the contract into existence." His lordship had never heard it suggested that in a case where the parties contemplated exchange as being the vital thing that bound them contractually they were not entitled down to the very last moment to change their minds and refuse to exchange. That is what had taken place in the case before the court.

In a subsequent article it is proposed to widen the scope of the present inquiry to cover some commercial transactions which have come before the courts for determination of the question whether they were binding as contracts or were conditional or otherwise imperfect.

J. F. J.

Taxation

INCOME TAX : ADDITIONAL ASSESSMENTS

THE judgment of the Court of Appeal in *Commercial Structures, Ltd.* v. *R. A. Briggs* (*Inspector of Taxes*) [1948] 2 All E.R. 1041, has thrown light on the extent of the Revenue's power of making additional (or fresh) assessments under s. 125 of the Income Tax Act, 1918, when the inspector discovers that there was an undercharge in the first assessment (or that no assessment had been made).

The case was concerned with Sched. A, though the principle applies equally to any other assessments. It was not in dispute that the taxpayers had at all times made full disclosure and had been undercharged in the first assessments owing to the inspector's mistake in the way in which he applied the law to the particular facts of the case, but it may be of interest to see how the mistake arose. The taxpayers were the owners of requisitioned property, and were entitled, under s. 2 of the Compensation (Defence) Act, 1939, to a compensation rent of £4,940 per annum, that being the figure of rent reasonably to be expected from the property on terms that the tenant undertook to pay rates and to bear the cost of repairs, insurance and maintenance. In making the valuation the Revenue had to assess " the rack rent at which the premises were worth to be let by the year," which would be the gross annual value in accordance with the general rule of No. 1 of Sched. A. " Rack rent " is not defined in the Income Tax Acts, but means a full rent which a tenant could be expected to pay, and therefore indicates a rent based on the assumption that the tenant pays rates and the landlord does repairs (*Gundry* v. *Dunham* (1915), 7 Tax Cas. 12). In this case the compensation rent was not a rack rent, because it was based on a market rent on the assumption that the tenant, and not the landlord, was responsible for repairs. Clearly, therefore, the figure of £4,940 should not have been treated as the gross annual value, but some higher figure representing the market rent if the landlord were responsible for repairs. It is the practice—though supported by no binding authority—to find that higher figure by adding 10 per cent. to whatever the market figure may be when the tenant does repairs, and that is what the inspector of taxes did in this case when he caused the additional assessments to be made. (In his judgment, Tucker, L.J., indicated that the mistake was due to the inspector having overlooked s. 2 (*b*) of the Compensation (Defence) Act, 1939, providing for the payment of compensation for damage done. May the writer be permitted, with respect, to suggest that the mistake was due, not to that, but to the failure of the inspector to consider the effect of the provision in s. 2 (*a*) that the compensation rent was to be calculated on the basis of the tenant bearing the cost of repairs.)

The point for the decision of the court was whether, the mistake having admittedly been made, the inspector was able to cause additional assessments to be made when the only " discovery " he had made was the effect of the general law on a particular set of facts. The court held that he had this power, so that the additional assessments were properly made, and the taxpayers' appeal failed. This is the first decision of the Court of Appeal directly on this point, and confirms the decision of the King's Bench Division in the earlier case of *Williams* v. *Grundy's Trustees* [1934] 1 K.B. 524—a case of a mistaken belief of one inspector that a beneficiary resident abroad, who was interested in foreign income arising under a trust, had a vested interest therein, so that the income would be exempt from tax, whereas in fact his interest was contingent so that liability was attracted; another inspector discovered the mistake and caused additional assessments to be made, and this was held to be within the power conferred by the section. The Court of Appeal in the *Commercial Structures* case approved and adopted the language of Lord Normand in the Scottish case of *Inland Revenue Commissioners* v. *Mackinlay's Trustees* [1938] S.C. 765.

The impression which may have prevailed hitherto, that a Sched. A assessment cannot be increased between " quinquennial " valuations—and " quinquennial " valuations have been indefinitely postponed—except on grounds of non-disclosure by the taxpayer of material facts or of structural alterations having been carried out, must be corrected. The discovery by the inspector of a mistake of fact or of law may give rise to an additional assessment. However, it still remains true to say that the mere fact of a rise in the value of property between " quinquennial " valuations is not a ground for increasing the assessment.

In his judgment in the *Commercial Structures* case—applicable to all assessments, not merely Sched. A—Tucker, L.J., pointed out that the interpretation placed by the court on s. 125 might involve a taxpayer in the hardship that past assessments might be reopened due to some subsequent judicial decision which rendered him liable to additional or fresh assessments over past years. His lordship pointed out that the taxpayer might find unwelcome any other interpretation of the word " discovers " when the provisions of s. 140 of the Income Tax Act, 1918, were in question, where the Legislature was dealing with discoveries made by the taxpayer. It is to be doubted whether this consolation offered by Tucker, L.J., will afford much comfort to the taxpayer, for s. 140 is only intended to give him an opportunity of " making a clean breast of things " when he discovers his own shortcomings and wishes to avoid penalties. It should be observed that if the taxpayer wishes to have assessments reopened in his favour by reason of a subsequent judicial decision in some other case, he will be defeated by the proviso to s. 24 (2) of the Finance Act, 1923, " no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed, where the return or statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return or statement was made."

C. N. B.

Mr. T. S. Jewels, Deputy Town Clerk of Yeovil, has been appointed Hon. Secretary to the South-West Development Association.

Mr. F. G. Petch and Mr. A. G. Prideaux, representing the Solicitors' Company, were awarded the prize for the best aggregate for the day at the golfing competition between Liverymen of City Companies held recently.

Mr. E. G. B. Fowler, Leicester's oldest practising solicitor, is retiring from the post of clerk to the Rutland magistrates after forty-five years. He was admitted in 1894.

The Town Clerk of Abingdon, Mr. A. C. Croasdell, has been presented with an electric clock by members of the staff of the Abingdon Borough Council.

A Conveyancer's Diary

AGENTS' COMMISSION

CONTRACTS with estate agents for the payment of commission are notoriously difficult; they follow no common pattern, and their loose and verbose phraseology is a fruitful parent of litigation. But notwithstanding the intractability of the subject-matter a number of decisions spread over the past few years, beginning with the famous case of *Luxor (Eastbourne), Ltd.* v. *Cooper* [1941] A.C. 108, have done a good deal to clear up the law relative thereto, and something like a coherent series of general propositions has emerged by reference to which the validity of claims to commission arising out of estate agents' agreements with potential vendors can usually be tested with a fair measure of confidence in the opinion which results. The decision in the most recent of the cases on the subject, *Bennett and Partners* v. *Millett* [1949] K.B. 362, is unexceptionable by these standards, but it contains certain *dicta* which may, perhaps, mislead.

The facts were that the defendant called on the plaintiffs, who were a firm of auctioneers and estate agents, and verbally instructed them to sell a certain property belonging to his wife. The following day the plaintiffs wrote to the defendant a letter which set out the terms on which they had been instructed in the matter, and which contained the following sentence: "We confirm that in the event of our introducing a purchaser who is able and willing to complete the transaction, our commission will be in accordance with the recognised scale . . ." The defendant did not reply to this letter, but his acceptance of it, by implication, as a record of the terms agreed upon between the parties was not in doubt. The plaintiffs found a person who was willing to pay a price acceptable to the defendant and who signed an agreement, subject to contract, to purchase at that price and paid a deposit, but the defendant's wife, although pressed by the prospective purchaser to complete the transaction, refused to go on. The plaintiffs in these circumstances demanded their commission, and on its being refused brought an action to recover the sum which they claimed to be entitled to under the terms of their agreement with the vendor. Hilbery, J., gave judgment for the plaintiffs, a decision which appears to be clearly in line with the current trend of authority, especially with *Giddys* v. *Horsfall* [1947] 1 All E.R. 460, although the learned judge expressed hesitation in arriving at it. This hesitation, it is submitted, was due to certain *dicta* with which he prefaced the main body of the judgment, and which indicates a dangerous misconception of the effect of the *Luxor* decision.

Counsel for the defendant had pointed out in argument that the phrase "in the event of our introducing a purchaser who is able and willing to complete the transaction" was a combination of two phrases which had received judicial consideration, namely, (1) "in the event of our introducing a purchaser" considered (also by Hilbery, J.) in *Jones* v. *Lowe* [1945] K.B. 73, and (2) "in the event of our being instrumental in introducing a party prepared to purchase" considered in *Giddys* v. *Horsfall, supra*. In *Jones* v. *Lowe, supra*, the estate agent introduced a person who, as was found at the trial, was ready and willing to purchase, but the vendor withdrew the property from sale before the prospective purchaser had signed a binding contract of purchase; it was held that the agent had not introduced a purchaser, in accordance with the terms of the contract, and was not entitled to his commission, the learned judge relying on certain remarks in the speeches of Lord Russell of Killowen and Lord Romer in the *Luxor* case in support of this conclusion, to which reference is made below. In *Giddys* v. *Horsfall, supra*, the vendor also withdrew after the agents had found a prospective purchaser but before a contract had been signed, but here Lewis, J., made a distinction between the case of a contract for the payment of commission on the introduction of a purchaser *simpliciter*, and a contract for the payment of commission on the introduction of a person prepared to purchase, and as a matter of construction decided that the contract on which he had to adjudicate ("party prepared to purchase") fell within the latter category and did not, in the event which had happened of the vendor crying off before contract, entitle the agent to commission. This statement of the facts and the results of these two cases is made not because the decisions in question are open to question (they clearly are not) but in order to supply the necessary background for what follows.

Hilbery, J., in *Bennett* v. *Millett, supra*, after pointing out that the question before him was purely one of construction, went on as follows (p. 365): "It is an odd thing, in face of the decision on the meaning of the word 'purchaser' in *Luxor (Eastbourne), Ltd.* v. *Cooper* and in contradistinction to it the decision of Lewis, J., in the case of *Giddys* v. *Horsfall*, that the letter should have been written in this form. To put it quite shortly, in the *Luxor* case the court held that where an agent contracts for a commission to be paid to him on finding a purchaser, he must find someone who, in fact, completes a purchase. In the *Giddys* case, where the agents stipulated for their commission as becoming payable to them in the event of their being instrumental in introducing a party prepared to purchase on the terms of the vendor's instructions or on terms acceptable to him, the court held that a contract so worded did not require the agents to find someone who actually completed . . ." And a little later in the judgment the learned judge stated that no person could be a purchaser "in the strict sense of the word (and as construed by the House of Lords in the *Luxor* case) unless he completes the purchase."

The passages in the speeches in the *Luxor* case which the learned judge must, I think, have had in mind when making these observations are two. The first is where Lord Russell of Killowen said (at p. 126): "The position will no doubt be different if the matter has proceeded to the stage of a binding contract having been made between the principal and the agent's client. In that case it can be said with truth that a 'purchaser' has been introduced by the agent . . ." The second is where Lord Romer referred (at p. 154) to a purchaser "which must mean at least a person who enters into a binding contract to purchase."

It will be seen, from a comparison of these two extracts and the passages quoted above from the judgment of Hilbery, J., in *Bennett* v. *Millett, supra*, that there is no justification for the statement, in the latter, that "as construed by the House of Lords in the *Luxor* case" no person can be a purchaser unless he completes the purchase. Both the learned lords adopted, as their test, not the completion of the purchase, but the making of a binding contract, that is to say, in their view (as one might expect in the case of two former equity counsel) the word "purchaser" has the meaning, in such a context as this, that it bears in a contract of sale. This slip on the part of the learned judge is the more inexplicable in view of his recent decision in *Jones* v. *Lowe, supra*, where the whole case turned on the meaning of the expression "purchaser" used alone and without qualification, and that expression was correctly construed, after reference to the speeches already mentioned in the *Luxor* case, as meaning a person who "signs a legal contract binding him to go through with the purchase."

But this point apart it is, I think, reading far too much into the *Luxor* case to say that its short effect is as Hilbery, J., stated it, even if the necessary correction as to the precise meaning of the expression "purchaser" is made to the statement as it is quoted above. There are a great many *dicta* in the *Luxor* case, some of which no doubt suggest that in a contract for the payment of commission on the introduction of a purchaser, the word has a certain significance, but the contract which had to be construed in that case (which was a verbal contract) did not in fact use the word. The effect of the contract was stated by Lord Simon (at p. 115) as follows: "if a party introduced by the respondent should

buy . . . each of the appellants would pay to the respondent £5,000 on the completion of the sale"; in other words, the person to be introduced by the agent had, in the *Luxor* case, to be what Hilbery, J., postulated of every purchaser in such cases, a person who completes the purchase, but he was not in terms referred to as a purchaser. The suggestion that the word has a technical significance of any kind as a result of some construction put upon it in the *Luxor* case is, therefore, most misleading, for the expression was never the subject of construction in that case at all.

The fact is, of course, that as Scrutton, L.J., pointed out in *James* v. *Smith* [1931] 2 K.B. 317*n* (and he was not the first to do so) the sole question in each of these cases is construction of the contract made by the parties as a whole, and in the context of such contracts the force to be given to such words as "purchaser" must vary according to the context. The word has no single, inevitable significance, and in suggesting that it has the judgment in *Bennett* v. *Millett*, *supra*, should not, I consider, be accepted.

"A B C"

Landlord and Tenant Notebook

DANGEROUS ADDITION TO PREMISES

THE substantial issue in *Ball* v. *London County Council* [1949] 1 All E.R. 1056 (C.A.), concerned the scope of a duty to take care and, strictly speaking, the point was not a landlord-and-tenant point. But the facts and judgments contain a good deal of matter which is of interest to and may well afford guidance to parties to tenancies.

During the currency of a tenancy granted by them, the defendants had, in 1940, gratuitously installed a domestic boiler in the premises. In February, 1947, a severe frost caused the water system to freeze. While it was in that condition the second plaintiff, a daughter of the tenant (who was the first plaintiff), lit the boiler fire with (according to Evershed, L.J.) the object of thawing out the frozen pipes. The result was an explosion by which she was seriously injured. It was common ground that, if the boiler had been fitted with a safety valve, this would not have happened and the plaintiff sought to establish, and at first instance succeeded in establishing, a duty towards her so to instal the boiler that it would be as safe for its purpose as reasonable skill and care could make it. This proposition, accepted at first instance where *Malone* v. *Laskey* [1907] 2 K.B. 141 (C.A.) was not cited, was rejected by the Court of Appeal.

Put quite shortly, the appeal was allowed because the boiler was outside the category of "dangerous" things. But in narrowing the issue to that point, the court considered, if only to dismiss from further consideration, a number of kindred matters.

Reference was thus made, for instance, to the position of a tenant taking a house defective or dangerous at the time of the letting and, without mentioning the authorities, Tucker, L.J., observed that the law was that the landlord, even if he had himself put the house into the condition in question and knew of that condition, was not liable to the tenant and not liable to a stranger visiting the premises. Authorities were not cited, but the proposition was clearly founded on *Bottomley* v. *Bannister* [1932] 1 K.B. 458 (C.A.), in which it was held that vendors who had built a house and sold it, and let the purchaser into possession as tenant at will pending completion, were not liable for the death of either him or his wife, caused by fumes from a boiler not provided with a flue. This decision and *Davis* v. *Foots* [1940] 1 K.B. 116 (C.A.) have been much criticised by those whose function it is to advocate changes in the law (see, for instance, 9 *Modern Law Review* 42) but that no such change has been made was demonstrated more recently by *Travers* v. *Gloucester Corporation* [1947] K.B. 71 (defective geyser). Shortly, the principle of *Donoghue* v. *Stephenson* [1932] A.C. 562 is inapplicable to such cases because, as regards landlords, there is "no law against letting a tumble-down house" (*Robbins* v. *Jones* (1863), 15 C.B. (N.S.) 221) and as regards builders no proximate relationship with occupiers. The question whether the law should be altered is among those exercising the minds of the Leasehold Tenure Reform Committee and on which they have consulted the Bar Council and The Law Society.

But in the case before the court the object which caused the trouble had been gratuitously added during the term, and it was this feature that brought *Malone* v. *Laskey* [1907] 2 K.B. 141 (C.A.) into play. The plaintiff in that case was the wife of the manager-secretary of a company which held an underlease of the premises at which they resided. The defendants were their superior landlords and also owned some adjoining property where they installed an electric light engine. Vibration caused by this apparatus made the water tank in the lavatory in the occupied premises unsafe, and complaints made to the mesne tenants were passed on to the defendants who sent plumbers along to remedy the defect. A supporting bracket which the plumbers put in fell and injured the plaintiff. Three circumstances combined to defeat her claim: she had no estate in the premises, so had no cause of action for nuisance occasioned by the vibration; she had no contract with the defendants, whose action in installing the bracket was, having regard to the first-mentioned circumstance, a voluntary act; and she was not their invitee.

But little or nothing was said about things dangerous in themselves in *Malone* v. *Laskey*; the plaintiff's counsel, it is true, argued that the weight of the bracket plus its height above the floor made it dangerous if insecurely fixed, but most of the argument centred round status and relationship and, as far as fact was concerned, vibration as *causa causans*. Consequently it was necessary, in *Ball* v. *London County Council*, to examine the nature of the boiler. In *Dominion Natural Gas Co., Ltd.* v. *Perkins* [1909] A.C. 640, Lord Dunedin said: "There may be, however, in the case of anyone performing an operation or setting up, a relationship of duty . . ." So far the speech would support the proposition put forward on behalf of the plaintiff in *Malone* v. *Laskey*, which emphasised manner rather than matter: "insecurely fixed." But Lord Dunedin went on: "What that duty is will vary according to the *subject-matter of the things* involved," and this was what mattered.

In *Ball* v. *London County Council*, the Court of Appeal were unanimous in holding or finding that the boiler was not within the category of things dangerous *per se* and the appeal was allowed accordingly. But no definition was attempted, and it is clear that, though this was not a borderline case, there may be many such. There is authority for classifying loaded guns, poisons, and explosive gases as things dangerous in themselves, and *obiter dicta* have added naked swords, and hatchets. If one were to seek to criticise the recent decision, one might first point to references in Singleton, J.'s judgment to shortage of apparatus (in 1940) and to the small cost of safety valves; but these observations relate rather to the absence of any explanation of departure from the "normal practice" by which such valves are fitted. Rather more provoking is the amount of attention paid to "normal practice" as a criterion of dangerousness. Undoubtedly improvements making for safety tend to become the usual thing—motorists no longer display red triangle notices to convey to all and sundry that their vehicles have brakes on all four wheels—but, being one who is never unduly impressed by the answer "this is the first complaint we have had" when I have had occasion to make such, I cannot but feel that there was rather too much "whatever is, is right" atmosphere in this case. Tucker, L.J., reviewed at some length the evidence given in examination and cross-examination by experts on both sides, most of which concerned

whether and if so to what extent it was usual to fit safety valves: the expressions "usual," "practice," "hard and fast rule," "customary" occur freely, and one is left with the impression that "usual" was synonymous with "safe" for the purposes of the issue. In some of the earlier decisions mentioned, more has been done to show that the rules followed or not followed bore relation to danger: e.g., in *Bottomley* v. *Bannister*, the evidence that 15,000 similar boilers had been sold was accompanied by evidence that there had been no mishap in the case of 500 of them sold to and used by one purchaser; in *Travers* v. *Gloucester Corporation*, experts who spoke of accepted principles clearly had the question of safety versus danger in mind. In considering, then, whether the boiler in the recent case was, to accept a definition which has been attempted, "something which, if left, may at any moment, and under modern circumstances, cause damage" (Lord Wright, in *Glasgow Corporation* v. *Muir* [1943] A.C. 448), one might well consider not only usual practice but whether conditions created by a severe frost are covered by "at any moment" and whether the ignorance of the second plaintiff was not a modern circumstance which made her conduct less "temerarious" or less the cause of her injury than was suggested by Evershed, L.J.

R. B.

REVIEWS

The Law of Wills. By S. J. BAILEY, M.A., LL.M., of the Inner Temple, Barrister-at-Law, Fellow of St. John's College, Cambridge. Third Edition. 1948. London: Sir Isaac Pitman & Son, Ltd. 25s. net.

This little volume is one of Pitman's Equity Series, and is intended to afford the student an introduction to the study of the law on wills, but we cannot help thinking that a perusal of this book will leave the novice with a rather unbalanced view of this branch of the law. The trouble is, of course, that while the subject is both large and exceptionally amorphous, the treatment given to it here is sometimes very scanty. Thus the pages devoted to the rule against perpetuities are barely intelligible in the absence of an adequate definition (nowhere found) of "vesting"; the references to vesting on pp. 132 *et seq.* are found in a section on conditions subsequent—a wholly inadequate approach to this cardinal problem. The meaning to be ascribed to "children" in a will would emerge more clearly if the simple rule that *prima facie* the word means legitimate children only were stated somewhere. And it is surely an odd book on wills that finds no space for such questions as accruer and substitutional gifts. There are some smaller points too which could be cleared up with advantage in another edition. *Re Villar* [1929] 1 Ch. 243 is a bad choice to exemplify the rule applied therein in view of the remarks of Morton, J., in *Re Leverhulme* (1943), 169 L.T. 294. In explaining the rule in *Lassence* v. *Tierney* (1849), 1 Mac. & G. 551, it is not helpful to say (p. 183) that the rule gives the donee an absolute interest if the engrafted trusts "become ineffective (e.g., through lapse)" and to follow up the statement with examples of the application of the rule which have nothing to do with lapse. And the approach (p. 207) to the meaning of "money" in wills is quite ludicrously cautious in view of *Perrin* v. *Morgan* [1943] A.C. 399, and the common-sense manner in which that decision is at present being applied by the bench. But in spite of these shortcomings Mr. Bailey writes clearly (his section on the Inheritance Act is an admirable example of lucid compression), and the fact that this is the third edition of this book shows that it fills a need.

Palmer's Company Law. Nineteenth Edition. By His Hon. A. F. TOPHAM, LL.M., K.C., a Bencher of Lincoln's Inn. 1949. London: Stevens & Sons, Ltd. 42s. net.

A new edition of a standard text-book is always an event and, having regard to the importance of the Companies Act, 1948, a new edition of Palmer is doubly welcome.

Company law is now such a complex subject that it is really not capable of being fully dealt with in a single volume. In Palmer "Accounts and Balance Sheets" are dealt with in six pages (209–214) and "Audit" in another six pages (215–220). "Winding-up," a subject in itself worthy of a large text-book, is dealt with in sixty-one pages (375–435), although the text of Pt. V of the Act and of the Winding Up Rules of 1949 together cover over one hundred pages. That these subjects are somewhat scantily treated is not a criticism of Palmer, but merely a sign of necessity. Sooner or later Palmer must be split into two or three parts and substantially expanded. It is to the credit of the author that within a text of 456 pages so much ground has been covered and, upon the whole, so little of importance omitted.

It is a pity that the forms annexed to the Winding Up Rules of 1949 and the Forms Order of 1949 are not included, since the great advantage of a book like Palmer should be that it is completely self-contained. The reason, no doubt, lies in the date on which the edition was first put in the press and the desire of the publishers not to hold up publication longer than was necessary. It is to be hoped that at not too long an interval a twentieth edition will follow.

The contents of the book, as might be expected, call for little criticism and fully maintain the high standard of previous editions. It is somewhat surprising to find that, although a special chapter exists covering "Pensions and Gratuities," practically no assistance is given upon the vexed question of the grant of pensions to directors; surely *Re Lee, Behrens & Co.* deserves more than a short summary without explanation.

This edition, like its predecessors, is well set up and bound and few printer's errors appear. The set-up of the work has been altered so as to make for smoother reading and is an improvement on previous editions. The index might with advantage be expanded, although it is adequate.

Every practitioner dealing with company law will require a copy of this work, if his library is to be really satisfactory; it might be worth waiting for the next edition or a subsequent reprint, which includes all the statutory rules and orders now in force.

The Agriculture Act, 1947. By JOHN F. PHILLIPS, LL.B., of Gray's Inn, Barrister-at-Law. Fourth Edition. 1949. London: E. & F. N. Spon, Ltd.; Eyre & Spottiswoode (Publishers), Ltd. 30s. net.

The author of this book, who is Assistant General Secretary of the National Farmers' Union, has given us a lucid exposition of his subject, explaining not only the immediate effect of the parts and provisions of the Act but also the reasons for changes made and the objects which, it is hoped, the legislation will achieve. Discussion of the text of the enactment section by section is preceded by a useful introductory chapter and further chapters in which the effect of the new measure is examined and discussed with thoroughness. It is, no doubt, due to some of the many circumstances over which authors and publishers have no control nowadays that some five months have elapsed between completion and publication, and it is unfortunate that in the meantime Pt. III of the Act has, together with unrepealed portions of the Agricultural Holdings Act, 1923, been repealed and re-enacted as the Agricultural Holdings Act, 1948. A choice had to be made, the author explains, between proceeding to publish and waiting some twelve months; and those concerned with landlord and tenant will find the law correctly stated and illustrated, a change of reference being all that is necessary.

Everything a Shopkeeper Tenant should know. By L. G. H. HORTON-SMITH, M.A., of Lincoln's Inn, Barrister-at-Law. 1949. London: Council of Retail Distributors. 2s. 6d. net.

In this handbook, Mr. L. G. H. Horton-Smith, who has been one of the referees under the Landlord and Tenant Act, 1927, since that statute came into operation, places his considerable knowledge of the provisions governing compensation for improvements and those governing compensation or new leases in lieu thereof for loss of goodwill, at the disposal of the layman most affected. The author has the happy knack of being able to explain law without "talking down to" his audience. He gives a lucid exposition of the qualifying conditions and the procedure, without quoting authorities by name or reference, and rightly warns those concerned of the importance of serving notices in time. When it comes to the numerous qualifications of the rights concerned, which he correctly describes as "of importance," perhaps a little more stress might be useful in view of the description of those rights as "Great Rights" and the whole code as "your Great Charter." Incidentally, whether the result is a "finer charter than even that of the agricultural tenant" seems questionable since the replacement of the Agricultural Holdings Act, 1923, the latest mentioned, by legislation which may ensure security of tenure for far more than fourteen years. The professional reader will, I think, be mostly interested in the author's comprehensive but succinct discussion of how to assess compensation for goodwill, on pp. 10–12.

HERE AND THERE

THE NEW APPOINTMENTS

WELL, the appointments are out and it is as we thought. They had to be held in suspension until Sir Cyril Radcliffe (as he then was) had discharged his full duty to his Australian clients before the Privy Council. His promotion was foreseen if only on the well authenticated reports of work being turned away from his chambers, but it was not generally realised how high he was going. Some of the wiseacres had it that Lord Greene would go aloft and that we should then have Radcliffe, M.R. Others a little nearer the mark said that Lord Greene was quite happy where he was and that since he preferred to stay put we should have a Lord Radcliffe who had leap-frogged him into the highest appeal tribunal. Few seem to have foreseen that *both* would go up. After all, one of the vacancies was left by a Common Law man, but perhaps after his long sojourn in the Court of Appeal, Lord Greene is treated as having lost his Chancery domicile and acquired a sort of legal ambidexterity. Some of the tipsters much fancied the chances of Tucker, L.J., but the best opinion is that he is much better where he is. At present rates of taxation the rise in salary would have been a negligible benefit to him, while, from the public point of view, it is of the first importance to have a strong president available for the Court of Appeal II, and he is recognised as having done an enormous amount to raise the standard of the justice administered therein.

EQUITY TRIUMPHANT

SCANNING the list of promotions the general impression is that of equity triumphant. Not only are the two new Law Lords both Chancery men. So also is the new Master of the Rolls, Sir Raymond Evershed, whose former place another Chancery man, Jenkins, J., is called upon to fill, thereby leaving a vacant court for Mr. Harold Danckwerts, the Treasury Junior on the Chancery side, to fill. Lincoln's Inn looks up and rejoices. The two Law Lords have emerged from the same ground floor chambers at No. 3 New Square, where each in his turn has spent many years making his clerk a wealthy man, for it was in 1935 when Greene, K.C., became Greene, L.J., that we saw Radcliffe, K.C. making his first ceremonial bows within the Bar. At the height of his practice, Lord Greene is reputed to have been second only (possibly second) to Lord Simon in professional income with earnings at a minimum estimate of between £30,000 and £40,000 a year. Nor was Lord Radcliffe of Werneth (such is now his style and title) very far behind. Incidentally, from the point of view of actual profit his departure from the Bar may be regarded as an example of nicking the minute with a happy tact. The appreciation of his recent Australian clients must have been expressed in highly flattering terms upon his brief and this appreciation transformed by the change of profession (one devoutly hopes) into a tax-free asset should do something to stave off the worst rigours of judicial impoverishment.

LORD MACNAGHTEN'S PRECEDENT

IT has not escaped public notice that there is only one precedent for making a Law Lord out of material not yet processed by work as a judge or a Law Officer. Scottish Law Lords not infrequently make the single stride but not without having served first as Lord Advocate. Such was the case of Lord Thankerton and Lord Reid. Many hold the view that a little first instance experience will do no harm to the best appellate judges, but in that single instance of Lord Macnaghten it is hard to see how anything could have made him better than he was. His promotion was unique in another respect, for he was not yet seven years a silk when he was lifted up on January, 1887, in succession to Lord Blackburn. Thus was his fidelity to the law rewarded, for in the previous year he might, had he so chosen, have been Home Secretary. His judgments enshrine a rare combination of lucidity, precision, simplicity, erudition, practical good sense, whimsical humour and literary style. In fit and proper cases he had a highly effective gift of sarcasm and invective well exemplified in his opinion in the company-promoting case of *Gluckstein* v. *Barnes* [1900] A.C. 240, part of which has found its way into the Oxford Book of English Prose. Lord Macnaghten's promotion set an encouraging precedent and a high standard for emulation.

RICHARD ROE.

Mr. J. D. Scholey, solicitor, of St. Albans, is to be married on 11th June to Miss B. E. Bateman, of Harpenden.

Mr. J. F. W. Passmore, solicitor, of Tunbridge Wells, was married on 14th May to Mrs. P. M. Murray.

NOTES OF CASES

COURT OF APPEAL

RENT RESTRICTION: WIDOW SUING AS LANDLORD'S ADMINISTRATRIX

Littlechild *v.* Holt

Lord Goddard, C.J., Denning, L.J., and Birkett, J.
1st April, 1949

Appeal from Guildford County Court.

By s. 3 (1) of, and para. (*h*) of Sched. I to, the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, if the county court judge thinks reasonable an order for possession of premises within the Acts may be made without proof that suitable alternative accommodation is available if " (*h*) the dwelling-house is reasonably required by the landlord (not being a landlord who has become landlord by purchasing the dwelling-house or any interest therein after 6th December, 1937) for " various purposes.

The owner of a house within the Rent Restriction Acts brought an action claiming possession from the defendant tenant under s. 3 of, and para. (*h*) of Sched. I to, the Rent, etc., Act, 1933. While the action was in progress the owner died. His widow obtained an order substituting her as plaintiff, and she claimed to carry on the proceedings both as administratrix of her husband and in her own right. Her husband had bought the house after 6th December, 1937. The county court judge made an order for possession and the tenant now appealed.

LORD GODDARD, C.J., said that it was open to the plaintiff's wife, having obtained an order to carry on the action as her husband's personal representative, to join to the claim so made in that capacity one made in her personal capacity, for she might have additional rights as her husband's universal legatee. The action must, however, fail. If a landlord was unable to obtain possession of a house (though the conditions of s. 3 (1) and Sched. I were otherwise satisfied) because he had bought it after 6th December, 1937, his wife who, having been substituted for him on his death as plaintiff in an action for possession, thereafter carried on the action as executrix and also on her own behalf would be under the same disability. As a person deriving title under her husband and accordingly included by s. 12 (1) (*f*) of the Rent, etc., Act, 1920, in the expression landlord, she could be in no better position than he as against the tenant. *Baker* v. *Lewis* [1947] K.B. 186, and *Fowle* v. *Bell* [1947] K.B. 242, were distinguishable in that the persons who claimed possession had as successors in title a person not under the disability as to date of purchase which existed here.

DENNING, L.J., and BIRKETT, J., agreed.

Appeal allowed.

APPEARANCES: *Niall MacDermot* (*Vizard, Oldham, Crowder and Cash*, for *Mellersh & Lovelace*, Godalming); *Wallis-Jones* (*Potter, Crundwell & Bridge*, Guildford).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

RENT RESTRICTION: STANDARD RENT

Norton *v.* White

Tucker and Singleton, L.JJ. 5th April, 1949

Appeal from Edmonton County Court.

A house to which the Rent, etc., Act, 1920, had applied was, after being let at 14s. a week, from 1930 to 1936 in the possession of the landlord and so became decontrolled under s. 2 (1) of the Rent, etc., Act of 1923. In proceedings instituted in 1948 the respondent, the tenant, contended that the house was within the Rent Restriction Acts by virtue of s. 4 (2) of the Rent, etc., Act, 1938, because, having been excluded from the Acts by s. 2 (1) of the Act of 1923, it had not been registered in accordance with s. 4 (1) of the Act of 1938, in which event the standard rent would be 14s. a week. The appellant, the present landlord, contended that the house was outside the Rent Restriction Acts independently of the operation of s. 2 (1) of the Act of 1923, and was thus only brought into them by the Rent, etc., Act, 1939, in which event the standard rent was 35s. a week. The county court judge held that the standard rent was 14s. a week, and the landlord now appealed.

By s. 12 (2) of the Act of 1920, " this Act shall apply to a house or part of a house let as a separate dwelling " where the standard rent or the rateable value do not exceed specified annual amounts. By s. 2 (1) of the Act of 1923, " Where the landlord of a dwelling-house to which the principal Act applies is in possession of the whole of the dwelling-house at the passing of this Act, or comes into " such possession " at any time after the passing of this Act . . . the principal Act shall cease to apply to the dwelling-

house." By s. 1 (2) of the Rent, etc., Act, 1933, "As from 29th September, 1933, the principal Acts shall not apply to any dwelling-house unless it is a dwelling-house to which they applied immediately before the passing of this Act" i.e., 17th April, 1933. By s. 2 (1) of the Act of 1938, "Subject to the provisions of this Act relating to registration the principal Acts as from 29th September, 1938, shall not apply to any dwelling-house unless it is a dwelling-house to which they applied immediately before the passing of this Act." By s. 4 (1) of the Act of 1938, "If the landlord of any dwelling-house let as a separate dwelling immediately before the passing of this Act . . . deems that, by virtue of . . . s. 2 of the Act of 1923, the principal Acts had ceased to apply to the dwelling-house before the passing of this Act, he shall within three months after the passing of this Act" make a prescribed application for registration of the house. By s. 4 (2) if, in any proceedings with respect to a house to which s. 4 (1) applies "it appears that but for . . . s. 2 of the Act of 1923 the principal Acts would have applied to the dwelling-house" but no application for registration under s. 4 (1) has been made, the house shall be deemed to be within the Acts.

TUCKER, L.J., having analysed the relevant statutory provisions, said that if the Rent Restrictions Acts were to apply to a house at any particular point of time with which the court was concerned, it must at that point of time be a dwelling-house let as a separate dwelling. It would not be such a dwelling-house if, at that time, it was (as here on 17th April, 1933) in the occupation of the landlord, or was not then in existence. This house was not within the Act of 1938, because it was not, under s. 1 (2) of the Act of 1933, a house to which the Acts applied on 17th April, 1933. The reason for its being outside the Acts on that date was not its decontrol by operation of s. 2 (1) of the Act of 1923, but because, being on that date in the possession of the landlord, it was not let as a separate dwelling within the definitions in s. 12 (2) of the Act of 1920 and s. 16 (1) of the Act of 1933. There was accordingly no necessity to register the house, under s. 4 (1) of the Act of 1938, as decontrolled under the Act of 1923, as there would have been if it had on 17th April, 1933, in fact been let. The non-registration accordingly did not bring the house within the Acts by operation of s. 4 (2) of the Act of 1938. Consequently, it was brought within the Acts only by the Act of 1939, and the standard rent was thus 35s. a week, the rent at which it was first let again in 1936, as the landlord contended. The reasoning in *R. & P. Properties* v. *Baldwin* [1939] 1 K.B. 461 was applicable here.

SINGLETON, L.J., agreed.

Appeal allowed.

APPEARANCES: *Scott Henderson*, K.C., and *L. S. Fletcher* (*Leslie A. Fawke*); *J. F. Donaldson* (*Windsor & Co.*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

LIBEL: PLAINTIFF'S REMEDIES IN DEFAULT OF DEFENCE

Nagy v. Co-operative Press, Ltd.

Somervell and Cohen, L.JJ. 13th April, 1949

Appeal from Birkett, J., in chambers.

The plaintiff claimed damages and an injunction in respect of alleged libel. As the action was so framed R.S.C., Ord. 27, r. 11, was applicable, whereby "In all other actions than those in the preceding rules of this Order mentioned . . . if the defendant makes default in delivering a defence, the plaintiff may set down the action on motion for judgment, and such judgment shall be given as upon the statement of claim the court or a judge shall consider the plaintiff to be entitled." The plaintiff did not in fact rely on that rule, but he applied under Ord. 30, r. 1, for directions to the master, who acceded to the plaintiff's application that the action should be set down for trial within seven days in Middlesex by a judge and jury and Birkett, J., affirmed that order, and the defendants now appealed.

SOMERVELL, L.J., said that *Morse* v. *Frost* [1927] 1 K.B. 231, a case under R.S.C., Ord. 27, r. 4, applied here, and showed that a plaintiff could exercise rights other than those which r. 4 (here r. 11) gave him. Order 27, r. 11, therefore, did not provide exclusively for the plaintiff's rights. The defendants then argued that there was no jurisdiction in the master to hear an application for directions under Ord. 30, r. 1, until the pleadings were deemed to be closed, whereas it was agreed that they could not be deemed to be closed here. The rule, however, did not say that, if the pleadings were by the default of the defendant not closed the plaintiff could not take out a summons for directions appropriate to the results of the defendant's inaction. He (his lordship) would be loth so to construe the rule as to shut out a plaintiff from the advantage of procedure which the rule was intended to give. If he were wrong on that point he would come to the conclusion that the court had jurisdiction to entertain a summons (which would not on this alternative view be a summons for directions) to direct that the issue outstanding should be determined by judge and jury. Appeal dismissed.

COHEN, L.J., agreed.

APPEARANCES: *Pritt*, K.C., and *John Thompson* (*Church, Adams, Tatham & Co.*); *Hogg* (*Jacobson, Ridley & Co.*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

COSTS: SHORTHAND WRITER'S PROPER FEES

In re Robertson, deceased; Public Trustee v. Robertson

Vaisey, J. 13th April, 1949

Summons to review taxation.

The only question raised by the summons was as to a disbursement of £7 13s. for the charges of the shorthand writer, in respect of which £5 12s. was allowed, being a difference of £2 1s. The matter was an action by originating summons to determine the construction of a will and came before Uthwatt, J. (as he then was), in October, 1945. He made the usual order for taxation of costs as between solicitor and client and payment out of the estate, including the costs of taking a shorthand note of the judgment, and of one copy of the transcript.

VAISEY, J., said the question now raised was brought up before Romer, J., in 1947, but no further order was made, and the Taxing Master allowed £5 12s. and no more. The case came on before Uthwatt, J., on three days and shorthand notes were taken on two days. But the shorthand writer attended on all three days and the Taxing Master ought to have allowed £2 2s. a day for each of the three attendances and £1 8s. for the transcript of the judgment which would have brought the total bill of the shorthand writers to £7 13s. That amount was paid to the shorthand writers by the Public Trustee's solicitors, and the Public Trustee was presumably entitled to reimburse himself the costs, charges and expenses of his executorship. He wanted a note taken and a transcript and he went to people who could take the note and make the transcript, and for that he was bound to pay the recognised charge. His lordship then referred to the evidence of Mr. H. G. Wilde, of the Institute of Shorthand Writers, who distinguished the "official work" from the "non-official work," the latter being a matter for agreement by the party employing the shorthand writer. There was a published scale of fees for non-official work which, until a recent increase, had always been allowed on taxation. Under the old scale the charges would have amounted to £4 18s., but under the new scale, which had been well known for four years, the charges were £7 13s. The non-official charge had been advertised and brought to the notice of the profession and generally accepted. Having examined the full transcript of what happened on 24th and 30th October, he thought the charge of £7 13s. was reasonable and ought to be accepted. He had the greatest difficulty in seeing why the fee of £7 13s. was not allowed. The deduction from it of £2 1s. was not justified, and the case must go back to the Taxing Master to vary his certificate with that intimation. But he would like to make it clear that the Taxing Master was misinformed about the note taken on 24th October. The shorthand writer had been engaged to attend the court on that day, and it did not matter that Uthwatt, J., went to sit in the Court of Appeal.

APPEARANCES: *Neville Gray*, K.C., and *F. Bower Alcock* (*Thompson, Quarrell & Megaw*) for the Public Trustee.

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

BANKRUPTCY: DEBTOR'S PETITION: NO PROVABLE DEBTS

In re Dunn; Official Receiver v. Dunn

Romer and Jenkins, JJ. 9th May, 1949

Appeal from order of the registrar of Newcastle-upon-Tyne County Court.

A debtor owed bookmakers £1,610 as the result of gaming transactions. He agreed with them that in consideration of the bookmakers' refraining from taking proceedings against him in the police court or county court and having him posted as a defaulter, he would submit to an award of the Northern Bookmakers Protection Association, Ltd., which found that he should pay the bookmakers £1,610. On 31st August, 1948, the bookmakers issued a writ against the debtor who on 13th September, 1948, filed his own bankruptcy petition; on the same day a receiving order and an adjudication order was made against him. On 14th October, 1948, the bookmakers' solicitors wrote to the

Official Receiver (who was appointed trustee in bankruptcy) that there was a binding contract to pay the claim, but later they informed the Receiver that their clients did not intend to prove in the bankruptcy though they were unwilling to release the debt under seal. The only proof of debt lodged in the bankruptcy was for income tax amounting to some £33, but as a result of subsequent correspondence the Inland Revenue Commissioners were prepared to withdraw their claim and to continue the collection of tax from the debtor's earnings under P.A.Y.E. As the bookmakers' claim was unlikely to be admitted even if a proof had been lodged, there were in the bankruptcy no known creditors having provable debts, and the Official Receiver applied to the registrar for an order rescinding the receiving order, annulling the adjudication order and dismissing the bankruptcy petition. The learned registrar dismissed the petition and held that the filing of the petition was not an abuse of the process of the court; he declined to rescind the orders because that would make the debtor liable to debts from which he was free under the orders, and directed the Official Receiver to proceed in the ordinary way. The Official Receiver appealed to the Divisional Court in Bankruptcy.

ROMER, J., said that the matter depended on whether, at the date when the debtor filed his petition and the receiving order and adjudication order were made, the debtor ought not to have been adjudged bankrupt. It was necessary to examine the position as it then appeared. At that time the debtor had received the writ issued by the bookmakers who showed every intention of pressing their claim, and the debtor knew that he could not pay. It could not be said that no consideration appeared on the face of the specially endorsed writ and that there was no case for the debtor to answer. Consequently, at the material time it was not plain that he was under no present or prospective liability to the bookmakers and that there was no reason why the debtor ought not to have been adjudged bankrupt. He (his lordship) had come to the conclusion that no case had been established for the intervention of the court under s. 29 of the Bankruptcy Act, 1914.

JENKINS, J., agreed.

In re Painter; ex parte Painter [1895] 1 Q.B. 85 followed; appeal dismissed.

APPEARANCES: *V. R. Aronson*, K.C. (*The Solicitor, the Board of Trade*); *Oliver Lodge* (*Soden-Bird*, Newcastle-upon-Tyne); *A. F. Maurice Berkeley* (*The Solicitor, Inland Revenue*).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

DIVISIONAL COURT

PUBLIC ORDER ACT: INSULTING WORDS TO NEIGHBOUR

Wilson *v.* Skeock

Lord Goddard, C.J., Oliver and Cassels, JJ. 7th April, 1949

Case stated by Durham justices.

The prosecution preferred an information against the defendant under s. 5 of the Public Order Act, 1936. The parties occupied different flats in the same building. From a communal yard at the back of the building the defendant shouted at the prosecutor, who was in her flat, abusive words which could be heard a considerable distance away. By s. 5 of the Act of 1936, "Any person who in any public place or at any public meeting uses . . . insulting words or behaviour . . . whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence." The justices convicted the defendant and bound him over to keep the peace for two years. He appealed.

LORD GODDARD, C.J., said the object of the Act of 1936 was not to check abusive language between neighbours, but (as its title showed) "to prohibit the wearing of uniforms in connection with political objects and the maintenance by private persons of associations of military or similar character; and to make further provision for the preservation of public order on the occasion of public processions and meetings and in public places." If a person from his backyard or garden, or even from his room, shouted at passers-by in language likely to cause a breach of the peace, and his voice carried into a public place and his intention was to insult persons passing in the street, then he might well be convicted of an offence under s. 5, though he was not at the time himself in a "public place"; but s. 5 could not have been intended to apply to one neighbour abusing another, and he would be reluctant so to hold. The prosecutor's correct procedure would have been to bring the defendant before the justices on a simple complaint that by his words and conduct he was a person likely to commit a breach of the peace, or that a breach of the peace was likely to be committed. The justices could then have bound him over to keep the peace under the Justice of the Peace Act, 1360 (*R. v. County of London Quarter Sessions Appeals Committee; ex parte Metropolitan Police Commissioner* (1947), 92 SOL. J. 73; 64 T.L.R. 102; [1938] W.N. 39). Alternatively they could have so proceeded by virtue of their commission as conservators of the King's peace. It was, however, well established that once they had a person before them on any charge, they might exercise those powers, and that is what they had in fact done here. They had power to bind the defendant over under those powers, and their order was therefore right. Oliver and Cassels, JJ., agreed. Appeal dismissed.

APPEARANCES: *D. Robson* (*Deacons & Pritchards*, for *Swinburne & Jackson*, Newcastle-on-Tyne).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

ROAD TRAFFIC: WORKER DRIVING FELLOW-WORKERS HOME

Lyons *v.* Denscombe

Lord Goddard, C.J., Oliver and Sellers, JJ. 12th April, 1949

Case stated by Glamorgan justices.

The defendant, a mineworker, used to drive his car each morning to the colliery at which he was employed, and each evening he used to drive four fellow workers at the colliery home in it. This was done in consideration of a weekly sum of 8s. to which each of the four men contributed 2s. a week. The arrangement had been made with one of them, and the 8s. was payable whether or not all four men travelled back in the car each night of the week. The 8s. was sometimes collected by the man with whom the arrangement was made and handed to the owner of the car, and was sometimes collected by the latter in individual amounts from the four men. The car was licensed for private and hackney purposes. No public service vehicle licence or road service licence was in force in relation to it. The uses for which it was duly insured covered "private hire" which was stated in the certificate of insurance to cover "letting of the vehicle supplied direct from the policy-holder's garage." The owner of the car was prosecuted for failing to have a public service vehicle licence for the car as being an express carriage, contrary to s. 67 of the Road Traffic Act, 1930, for having no road service licence, contrary to s. 72, and for not having the necessary third-party risks insurance in force, contrary to s. 35. The justices negatived the contention that the car had been used as an express carriage, held that the use in question fell within the defendant's policy, and dismissed the information. The prosecutor appealed.

LORD GODDARD, C.J., said that there was evidence on which the justices could find, as they had, that there was one contract for use of the car at 8s. a week. There was, therefore, no carrying of passengers at separate fares within the definition of "express carriage" in s. 61 of the Act of 1930, and so no public service vehicle or road service licence was necessary in respect of it. The use made of the car was clearly within the definition of private hire in the insurance policy notwithstanding that the car was driven to the colliery in the morning whereas the hirers would not require it until the evening. It was conceded that the use of the car would have been private hire if it had arrived at the colliery merely a short while before the hirers entered it. The intention of the policy could not have been to limit the hiring of the car to the garage itself, to which, in such a case, the hirer would have to walk.

OLIVER, J., agreed.

SELLERS, J., said that the justices might, on the evidence, have found that there was payment of separate fares. On the finding which they had made, however, there was clearly no use of the car as an "express carriage". Appeal dismissed.

APPEARANCES: *Lloyd-Jones* (*Torr & Co.*, for *Richard John, Cardiff*); there was no appearance for the defendant.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

PROBATE, DIVORCE AND ADMIRALTY

SHIPPING: RIVER BYELAWS: "CHANNEL"

The *Crackshot*

Willmer, J. 4th April, 1949

Action.

The defendants' steamship, the *Crackshot*, in March, 1948, collided with the plaintiffs' steamship in the Thames. Willmer, J., held both vessels equally to blame, but the negligence of the *Crackshot* turned in part on the true construction of byelaw 38 of the Port of London Authority River Byelaws, whereby

" Every steam vessel proceeding up or down the river shall, when it is safe or practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such vessel."

WILLMER, J., said that the byelaw must be construed according to the ordinary meaning of the words in which it was framed. The question was what " mid-channel " meant in that context. He was impressed by two considerations : (1) that the Port of London Authority were both responsible for dredging and maintaining the channel, and the byelaw-making authority ; (2) that the byelaws were made for seamen to read, and should accordingly be construed as a seaman would construe them. One would expect, *prima facie* at least, that the authority would use the expression " channel " in their byelaw in the sense of the channel which the authority themselves actually dredged, maintained and advertised. As for the second consideration, the Elder Brethren had said without hesitation that to them as seamen the expression conveyed the actually *dredged* and *maintained* channel. They had added that, as a matter of seamanship, in a river like the Thames, having a very large bend to port for a down-going vessel, such a vessel ought to take particular pains to keep very well over on her own starboard side. Insoluble difficulties would result from any other construction : for example, the " channel " would, on any other view, vary according to the state of the tide, and, indeed, according to the size and draught of the various vessels using it. The navigation of the *Crackshot* was at variance with the byelaw when construed as referring to the channel actually dredged and maintained. Judgment accordingly.

APPEARANCES : *Carpmael*, K.C., and *Porges* (*Parker, Garrett and Co.*) ; *Naisby*, K.C., and *Hewson* (*Sinclair, Roche & Temperley*, for *Botterell, Roche & Temperley*, Newcastle-on-Tyne).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVORCE : INSANITY : NON-RENEWAL OF RECEPTION ORDER

Marshall *v.* Marshall

Mr. Commissioner Grazebrook. 11th April, 1949

Petition for divorce.

After thirteen years of normal marriage, the wife was, after receiving head injuries in an accident, on 11th December, 1938, certified and admitted to a mental hospital. By s. 38 (1) of the Lunacy Act, 1890 (as amended), a reception order expires at the end of a year unless continued in a specified way. By s. 38 (4) of the Act, as amended by s. 7 of the Lunacy Act, 1891, a reception order continues at the end of certain prescribed periods if in the prescribed time before it is due to expire a special report that the patient is still insane is sent to the Lunacy Commissioners by the medical officer of the hospital. Special reports were made in December, 1942, and 1945, as they became due, but no trace of a report made in 1940 could be found. The husband's petition was under s. 176 of the Judicature Act, 1925, whereby " A petition for divorce may be presented . . . on the ground that the respondent is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition." By s. 3 (*a*) of the Matrimonial Causes Act, 1937 : " For the purposes of s. 176 " of the Act of 1925, " a person of unsound mind shall be deemed to be under care and treatment while he is detained in pursuance of any order or inquisition under the Lunacy and Mental Treatment Acts, 1890 to 1930 . . ." It was contended for the Official Solicitor, as the wife's guardian *ad litem*, that the conditions prescribed by s. 176 were not fulfilled, because the wife, since the expiry of the existing reception order for want of a medical report in December, 1940, had not been detained under the Acts of 1890 to 1930 as s. 3 (*a*) of the Act of 1937 required.

MR. COMMISSIONER GRAZEBROOK said that, though satisfied that the wife was of unsound mind, he must reluctantly dismiss the petition. The evidence tended to show that the report due in December, 1940, had not been made. There was also an affidavit by a medical officer at the second mental hospital to which the wife had been sent that, to the best of his knowledge, no report had been made in respect of the wife from the time when she had been transferred there until he himself had made the statutory report in 1942. In view of that evidence and the absence of the document itself, the petitioner had not made out his case. Petition dismissed.

APPEARANCES : *H. S. Law* (*Barlow, Lyde & Gilbert*) ; *Stuart Horner* (*Official Solicitor*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVORCE : PETITION FOUNDED ON CRUELTY : QUESTION TENDING TO SHOW ADULTERY

Sims *v.* Sims

Pearce, J. 13th April, 1949

Cross-petitions for divorce (reported on a question of evidence).

The wife petitioned for divorce on the ground of cruelty, praying for the exercise of discretion in respect of her adultery. The husband denied, and by his cross-petition alleged, cruelty. The wife's discretion statement was not put in evidence in her examination-in-chief. In cross-examination she was asked : " Have you committed adultery ? " but objection was taken on her behalf to the question. By s. 198 of the Supreme Court of Judicature (Consolidation) Act, 1925, " the parties to any proceedings instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceedings, but no witness in any such proceedings, whether a party thereto or not, shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery." It was contended for the husband that that section did not render the question inadmissible, for the proceedings had been instituted only on grounds of cruelty, and that if the Legislature had intended to protect a witness in proceedings other than those instituted in consequence of adultery it would have made the necessary statutory provision in the Act of 1937, when desertion and cruelty were added as new grounds for divorce.

PEARCE, J., ruled that the question should be admitted, since it might be relevant to credit, to the relations between the parties and to the matters which had actuated the wife in presenting her petition. Objection overruled.

APPEARANCES : *Paget*, K.C., and *W. Latey* (*H. Davis & Co.*) ; *R. J. A. Temple* (*Peacock & Goddard*, for *Salt, Howard & Young*, Bournemouth).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVISIONAL COURT

PRACTICE DIRECTION : STATEMENT OF REASONS BY JUSTICES

Lord Merriman, P., and Wallington, J. 2nd May, 1949

In delivering the second judgment in an appeal from justices, WALLINGTON, J., said that justice would be very much assisted and the decision of appeals facilitated if, in every case, justices would be careful to state with sufficient particularity the facts which they found proved and the various reasons on which they based their conclusions. The reasons given in the case in hand had caused the court considerable anxiety. He hoped that the criticism which he had expressed would be borne in mind, so that the court might in future know with sufficient precision what the justices had found as facts, and with equally sufficient certainty what had been the reasons which guided them to their decision. The court should not be under the necessity of searching among the notes of evidence for or of drawing inferences as to what the justices had really found.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

BOOKS RECEIVED

Legal Theory. By W. FRIEDMANN, LL.D., Dr. Iur., LL.M., of the Middle Temple, Barrister-at-Law. Second Edition. 1949. pp. xxiii and (with Index) 470. London : Stevens & Sons, Ltd. 30s. net.

The Hadamar Trial. War Crimes Trials, Vol. 4. Edited by EARL W. KINTNER, Attorney, Member of the Bars of Indiana and the United States Supreme Court. With a Foreword by The Hon. ROBERT H. JACKSON, Associate Justice, United States Supreme Court. 1949. pp. xxxvii and (with Index) 250. London : William Hodge & Co., Ltd. 18s. net.

The New Law of Education. By Miss M. M. WELLS, M.A., of Gray's Inn, Barrister-at-Law, and P. S. TAYLOR, M.A., Chief Education Officer, County Borough of Reading. Third Edition. 1949. pp. xx, 644 and (Index) 64. London : Butterworth & Co. (Publishers), Ltd. 21s. net.

Simon's Income Tax. In Four Volumes, Index Volume and a Service Supplement. Editor-in-Chief : The Rt. Hon. Viscount SIMON, G.C.S.I., G.C.V.O., D.C.L., LL.D., Lord High Chancellor of Great Britain, 1940–45. 1948. Vol. 1, pp. xvi and 523 ; Vol. 2, pp. xii and 414 ; Vol. 3, pp. xii and 450 ; Vol. 4, Statutes, Orders and Appendices ; Vol. 5, Index. London : Butterworth & Co. (Publishers), Ltd. Complete work, £15 15s net ; Service Subscription, £2 12s. 6d. net.

SURVEY OF THE WEEK

ROYAL ASSENT

The following Bills received the Royal Assent on 31st May :—

Agricultural Marketing
Agriculture (Miscellaneous Provisions)
British Film Institute
Commonwealth Telegraphs
Consolidation of Enactments (Procedure)
Grimsby Corporation
Mid-Northamptonshire Water Board Order Confirmation (Special Procedure)
Milk (Special Designations)
University of Nottingham
War Damage (Public Utility Undertakings, etc.)

The following Bills received the Royal Assent on 2nd June :—

Ireland
Landlord and Tenant (Rent Control)

HOUSE OF LORDS

A. Progress of Bills

Read First Time :—

British Transport Commission Bill [H.C.] [2nd June.
Housing Bill [H.C.] [31st May.
Justices of the Peace Bill [H.L.] [2nd June.

To amend the law relating to justices of the peace (including stipendiary magistrates), justices' clerks and the administrative and financial arrangements for magistrates' courts, to provide for paying travelling and lodging allowances to members of probation committees and case committees and for enabling probation committees to hold land, to authorise the appointment of interim clerks of the peace in Scotland; and for purposes connected therewith.

Legal Aid and Solicitors (Scotland) Bill [H.C.] [1st June.
Marriage Bill [H.L.] [2nd June.

To consolidate certain enactments relating to the solemnisation and registration of marriages in England with such corrections and improvements as may be authorised under the Consolidation of Enactments (Procedure) Act, 1949.

Merchant Shipping (Safety Convention) Bill [H.C.] [30th May.
Nurses (Scotland) Bill [H.L.] [2nd June.

To reconstitute the General Nursing Council for Scotland and otherwise to amend the Nurses (Scotland) Acts, 1919 and 1945, and to make further provision with respect to the training of nurses for the sick.

Superannuation Bill [H.C.] [1st June.

Read Second Time :—

Bolton Corporation Bill [H.C.] [31st May.
Bradford Corporation Bill [H.C.] [31st May.
Licensing Bill [H.C.] [31st May.
West Bromwich Corporation Bill [H.C.] [2nd June.

Read Third Time :—

City of London (Various Powers) Bill [H.C.] [1st June.
Coal Industry Bill [H.C.] [2nd June.
Commonwealth Telegraphs Bill [H.C.] [30th May.
Mountbatten Estate Bill [H.L.] [1st June.
Patents and Designs Bill [H.L.] [2nd June.
People's Dispensary for Sick Animals Bill [H.C.] [31st May.
Staffordshire Potteries Water Board Bill [H.L.] [1st June.
U.S.A. Veterans' Pensions (Administration) Bill [H.L.] [2nd June.

B. Debates

Lord Pakenham reported that the House of Commons had disagreed with the Lords' amendment to cl. 1 of the Landlord and Tenant (Rent Control) Bill, designed to enable rents to be raised in case of houses let since 1939 because the owner had been called up or required to live elsewhere, as "The amendment is inconsistent with the purpose of the clause." It was not correct to say that the adoption of Mr. Piratin's amendment had prevented these landlords from raising their rents—they would be prevented from doing that by the general operation of the Rent Restriction Acts anyway. The Government were unwilling to pick out one particular class of landlord for favourable treatment, but when the comprehensive legislation came along there would be no excuse for not giving the fullest consideration to the points raised in the debates. Lord Llewellin regretted that the Government could not accept the amendment, and pointed out that if the landlord adopted a course which had been suggested and went for possession on grounds of greater hardship the tenant would be worse off than if he were asked to pay a reasonable rent. The Commons further disagreed with the amendment designed to enable increased charges to be made for contractual services to tenants "Because it is inexpedient to make provision as respects a particular class of landlord." Lord Pakenham said that since the amendment had been introduced little evidence of any hardship in this connection had been forthcoming, but if it existed it would be most carefully considered when comprehensive legislation was being introduced. Lord Llewellin regretted that this rejection would discourage landlords of cheaper blocks of flats and tenements from providing the same facilities in the way of lifts, etc., which were already available in the more expensive blocks. [31st May.

In moving the Second Reading of the Licensing Bill, the Lord Chancellor said Pt. II of the Bill arose from the Royal Commission on Justices of the Peace under the chairmanship of the late Lord du Parcq. The report had recommended some limitation on the size of licensing benches and had recommended that county petty sessional divisions having ten or more justices on the active list should exercise their powers through a committee elected by the justices from amongst themselves. The Bill applied this principle to licensing authorities as a whole in both counties and county boroughs by providing that not only the licensing justices, but also the confirming and compensation authorities, should always be committees. The two latter bodies in counties would be a committee of quarter sessions and in county boroughs a committee of the whole body of justices. The proposals had been approved by both the Magistrates' Association and the Justices' Clerks' Association. The Bill did not deal with non-county boroughs because the Roche Committee had recommended that the smaller non-county boroughs should no longer have separate commissions of the peace. The Justices of the Peace Bill would contain the Government's proposals in that connection.

The Royal Commission had further recommended that the exemption of railway shareholders from the disqualification of licensing justices by reason of shareholding in brewing concerns, etc., should be extended to shareholders in co-operative societies and possibly to those whose shares were held by a trustee or where the undertaking in which shares were held did not deal mainly in intoxicating liquor. Clause 18 dealt with this point. Clause 29 dealt with "bottle shops," i.e., retailers' premises where by virtue of s. 111 (1) of the Licensing (Consolidation) Act, 1910, wines and spirits were sold for off-consumption under an excise licence only, no justices' licence being required. This had long been recognised as an anomaly and the Magistrates' Association, the Temperance Party and a large part of the licensed trade had urged that these premises should be brought under the control of licensing justices and this the Bill accordingly did. [31st May.

HOUSE OF COMMONS

A. Progress of Bills

Read Second Time :—

Auxiliary and Reserve Forces Bill [H.C.] [2nd June.
Falmouth Docks Bill [H.L.] [30th May.
Glasgow Corporation Order Confirmation Bill [H.C.] [3rd June.
Huddersfield Corporation Bill [H.L.] [30th May.
Marriages Provisional Orders Bill [H.C.] [1st June.
Pier and Harbour Provisional Order (Crarae) Bill [H.C.] [1st June.
Pier and Harbour Provisional Order (Southwold) Bill [H.C.] [1st June.
Teesside Railless Traction Board (Additional Routes) Provisional Order Bill [H.C.] [1st June.

B. Debates

In opening the Committee Stage and Third Reading of the Housing Bill, Mr. Blenkinsop moved a clause designed to enable a grant to be made of more than one-half the cost of improving houses of special architectural or historic interest. The Bill already allowed grants exceeding the maximum of £600 to be made in respect of such houses. In reply to a question by Mr. Mott-Radclyffe, Mr. Blenkinsop said there was no appeal from the local authority's decision as to whether a house came

within this special category or not, but if they decided to make a grant the decision had to be confirmed by the Minister. Mr. BEVAN said the attention would be drawn of any local authority which was inclined to be negligent in its duties in this regard. A further Government amendment increased the amount of instalments which local authorities can advance under the Small Dwellings Acquisition Acts whilst work is in progress from 50 per cent. of the value of the work done to 80 per cent. thereof. In reply to Mr. KENDALL, Mr. BEVAN said that local authorities could advance money in joint names, e.g., to husband and wife under the Housing Act, 1936, but not under the Small Dwellings Acquisition Acts. A further new clause inserted in the Bill permits a second improvement grant to be made in respect of the same property in approved cases. No second grant can be made in respect of *conversion*, but it may be made in respect of further improvements and an appropriate increase of rent can also be made. A further clause was inserted to enable an increase of 8 per cent. on the cost to be made in the rent where an owner has converted or improved with the assistance of a grant, and has then gone on to make further improvements entirely at his own expense. A similar clause was also inserted to cover the case where the initial grant had been made not under the new Bill but under the Housing (Rural Workers) Acts. The power of local authorities to make byelaws as to the number of persons who may occupy working-class houses, which was removed by the Housing Act, 1936, was restored by another new clause.

Lt.-Col. ELLIOTT moved a new clause that any development charge which became payable as a result of improvements carried out under the Bill should be treated as an expense incurred in carrying out the improvements. Mr. BEVAN said that as, under the Bill, the grant was made subject to restrictive conditions as to rent it could not be said that the owner had received any addition to the value of his property as a result of the improvements and hence he ought not to be liable to a development charge. In any case it could not be made if the improvements did not increase the capacity of the premises by more than 10 per cent. Even if that were the case steps would be taken by the Minister of Town and Country Planning to exempt this type of development from the payment of development charge. Mr. WALKER-SMITH thought that in any event such operations would come within either s. 12 (2) (*a*) or para. 3 of Sched. III of the 1947 Act, and in either case no development charge would be payable. Lt.-Col. ELLIOTT said if property was to be exempt from development charge because the development was hedged in by restrictions forbidding an increased return from the development a new set of circumstances might apply in other cases where it had been thought charge was attracted by alterations to the capital value of property. Even in this case, especially in regard to houses of architectural or historic value, the increment to the capital value would not be entirely taken from the owner by the restrictions and when they had lapsed he would be left with a property whose value *had* been enhanced by the grant.

A further Government amendment was agreed to enabling the Public Works Loan Board to make loans for the construction, improvement or purchase of houses in general and not merely working-class houses as provided by s. 92 of the Housing Act, 1936. Mr. BALDWIN next moved to extend from twelve months to two years from the commencement of the Act the period during which improvements must be completed in order to enable the owner to apply to the local authority for the rescission of a pre-war demolition order. Mr. ORR-EWING thought that all the necessary steps of applying for licences, doing the work, satisfying the local authority, etc., could not possibly be got through in twelve months. The Minister had said no grant would be payable for this class of improvement, but he (Mr. Orr-Ewing) could see nothing in the Bill ruling them out. Mr. BEVAN said this clause was not intended to enable owners to start work now in the hope that demolition orders would be rescinded as a result thereof. It was intended to enable those who had already done substantial work on such houses to complete the work and make application for rescission. They would not attract grant because applications for grants had to be made *in advance*, and local authorities would not approve schemes for the improvement of houses already condemned. Mr. HALE said that only the application had to be got in within twelve months—the repairs could be finished after it had expired. He was concerned that the subsequent application which the local authority would make to the county court for the rescission of the demolition order should be *ex parte*—the county court judge would be almost obliged to accept the local authority's certificate that the house was now fit for human habitation. Mr. MITCHISON thought that someone should be available in court to argue in defence of the demolition order. Mr. BLENKINSOP, in replying, said it was most unlikely any owner would come forward now with new proposals for work on condemned houses at his own expense, and the amendment was defeated.

Mr. MOTT-RADCLYFFE then moved an amendment to enable a purchaser of an improved house to have all the facilities of the applicant for the grant. As it stood at present the Bill required that the house should be occupied only by the applicant for the grant, a member of his family or a tenant. Mr. BLENKINSOP said the word " owner " would include, for example, holders of ninety-nine years' leases, and the word " applicant " was thought to be better. Mr. BEVAN said if the house was occupied by a tenant he did not mind who bought or sold it, but where the owner or his relatives occupied it the Bill provided that the grant must be returned if the house were sold. A Government amendment was agreed to enabling a house to be devised by will without liability to repay the grant arising. An amendment moved by Lt.-Col. ELLIOTT to enable grants to be made in respect of service cottages was defeated on a division. An amendment to reduce the extension of the operation of s. 7 of the Building Materials and Housing Act, 1945, was also defeated. A Government amendment enabling proceedings in respect of an offence under that section to be taken before any justice of the peace having jurisdiction in the district in which the house or building was situated was agreed to. Formerly, proceedings had to be taken in the district in which completion took place. Mr. PRITT moved an amendment designed to restrict local authorities' powers of increasing rents by compelling them to have regard to the rents of rent-restricted property in the same area. Mr. BEVAN said rents were fixed in accordance with the Exchequer subsidy and the local authority rate. If rents were uneconomic the tenants would simply have to pay more in rates. The amendment was negatived. [30th May.

C. QUESTIONS

In reply to a question by Mr. C. S. TAYLOR as to whether the Government was prepared to accept the Denning Committee's recommendation that a register of all decrees of divorce and nullity should be kept at the principal registry in London and with the Registrar of Marriages, the ATTORNEY-GENERAL said a register of all decrees, whether made in London or the provinces, was kept at the Principal Divorce Registry. He did not think the trouble of requiring decrees to be noted in marriage registers by superintendent registrars would be justified by its utility. [30th May.

The ATTORNEY-GENERAL said he expected to be able to make a statement on the interim report of the Leaseholds Committee shortly after the Whitsun Recess, by which time the report would have been published. [30th May.

The PARLIAMENTARY SECRETARY TO THE MINISTRY OF PENSIONS stated that when deciding whether to issue a certificate under s. 47 of the Crown Proceedings Act, 1947, that the death of a member of H.M. Forces was attributable to service, no account was taken of the question of negligence on the part of the individual or on the part of the authorities. Mr. SWINGLER said the Act was designed to place the Crown in the same place as any other employer and to restore to citizens their common law rights. Where negligence was involved resulting in a fatal accident which could not be considered a normal risk of military life, surely it was right that the citizen should have these common law rights? The PARLIAMENTARY SECRETARY said the only question they had to decide was whether the man was engaged in the pursuit of his ordinary duties. The question of negligence or otherwise did not enter into the matter. [31st May.

Mr. SILKIN declined to extend further the time for submitting claims for compensation for loss of development value. He thought the form at present used was as simple as possible having regard to its subject-matter. It was not necessary to insert figures and he was sure the Central Land Board would act reasonably as regards any omissions on the forms. There had to be a minimum of information on the forms to enable the valuers to get to work and he could not therefore accept a simple notification as sufficient. [31st May.

Mr. C. S. TAYLOR asked the Chancellor of the Exchequer (1) whether his attention had been called to the decision of Atkinson, J., in the King's Bench Division on 24th March that compensation rent under s. 2 of the Compensation Defence Act, 1939, was not assessable for defence contribution in so far as those taxpayers who were wrongly assessed by Revenue officials were penalised, whilst others who challenged the decision had been able to avoid payment on an incorrect assessment, and whether he would make an *ex gratia* repayment to the former. (2) Whether he was aware of the decision in *C.I.R.* v. *Buxton*

Palace Hotel, Ltd., as above, but that nevertheless the Board of Inland Revenue had stated that they could not agree to this decision being applied retrospectively to any cases which in their view were for technical reasons not regarded as being under appeal, and in view of the obscurity of the legislation involved what steps he would take to ensure that the present attitude of the Board of Inland Revenue was reconsidered. In reply, Mr. GLENVIL HALL said in general an assessment of tax which had become final and conclusive could only be reopened under the provisions of s. 24 of the Finance Act, 1923, which dealt with certain cases of error and mistake and which was applied to profits tax—formerly called National Defence Contribution—by s. 35 and Sched. V of the Finance (No. 2) Act, 1945. Under those provisions a judicial decision had no retrospective effect in relation to assessments which had become final and conclusive under the law, and the cases referred to by Mr. Taylor had therefore been correctly dealt with. The Chancellor of the Exchequer could not accept the suggestion that an *ex gratia* payment should be made to those taxpayers who had not availed themselves of their statutory right of appeal on the point.

[2nd June.

Mr. BEVAN said he did not think legislation necessary to prevent local authorities serving notices under the Public Health Act, 1936, on estate agents, or to prevent them describing such agents as "owners" on summonses and abatement notices, etc.

[2nd June.

STATUTORY INSTRUMENTS

Metropolitan Water Board (Term of Office) Order, 1949. (S.I. 1949 No. 1014.)

Local Government (Members' Allowances) Amendment (No. 2) Regulations, 1949. (S.I. 1949 No. 1006.)

These Regulations increase the amount of allowances payable where members use motor cars or motor bicycles, etc., on official business.

Control of Iron and Steel (No. 70) Order, 1949. (S.I. 1949 No. 1011.)

Town and Country Planning (Erection of Industrial Buildings) Regulations, 1949. (S.I. 1949 No. 1025.)

As to these regulations, see p. 364, *ante*.

Molasses Order, 1949. (S.I. 1949 No. 1001.)

Import Duties (Exemptions) (No. 2) Order, 1949. (S.I. 1949 No. 1009.)

Goods Vehicles (Permits) Regulations, 1949. (S.I. 1949 No. 1008.)

NON-PARLIAMENTARY PUBLICATIONS

Ministry of Town and Country Planning. South Wales Outline Plan. Explanatory Memorandum.

This memorandum explains that the plan was initiated in 1945 and since then there have occurred the nationalisation of coal and the passing of the Town and Country Planning Act, 1947. The Minister points out that this is *not* a development plan under the 1947 Act, but will be a useful guide to local planning authorities in preparing their development plans.

RENT TRIBUNAL AREAS EXTENDED

Since January the following additions have been made to areas covered by tribunals set up under the Furnished Houses (Rent Control) Act, 1946 :—

Bath : Borough of Malmesbury ; Rural Districts of Mere and Tisbury, Clutton, Pewsey.

Bedford : Borough of Higham Ferrers ; Urban Districts of Sandy, Stevenage, Oundle, Burton Latimer, Ampthill, Biggleswade, Desborough, Baldock, Linslade, Raunds ; Rural Districts of Hitchin, St. Neots, Ampthill, Brixworth, Luton, Northampton, Oundle and Thrapston, Towcester.

Birmingham East : Urban District of Solihull.

Birmingham West : Borough of Halesowen.

Blackpool : Urban Districts of Kirkham, Preesall, Poulton-le-Fylde.

Bootle : Rural District of West Lancashire.

Bournemouth : Boroughs of Blandford Forum, Dorchester, Shaftesbury ; Rural Districts of Bridport, Shaftesbury, Wimborne and Cranborne.

Bradford : Urban Districts of Denholme, Baildon, Skipton, Bingley, Silsden, Queensbury and Shelf ; Rural District of Wharfedale.

Brighton : Boroughs of Arundel, Rye ; Rural Districts of Uckfield, Battle, Horsham.

Bristol : Urban District of Mangotsfield.

Burnley : Boroughs of Clitheroe, Accrington ; Urban Districts of Barrowford, Barnoldswick, Clayton-le-Moors, Earby, Great Harwood, Church, Oswaldtwistle, Rishton, Trawden ; Rural Districts of Burnley, Bowland, Clitheroe, Settle.

Cambridge : Boroughs of Huntingdon, St. Ives, Wisbech, Bury St. Edmunds ; Urban Districts of Old Fletton, Sawbridgeworth, Royston (Herts), Haverhill, Ely, Ramsey ; Rural Districts of Clare, Huntingdon, Newmarket, Braughing, Wisbech, Thedwastre, Thorney, Norman Cross, North Witchford, Peterborough, Chesterton, South Cambridgeshire.

Cheltenham : Borough of Evesham ; Urban District of Ross-on-Wye ; Rural Districts of East Dean, Pershore, Northleach, Tetbury, West Dean, Evesham, Newent, Hereford.

Chester : Urban Districts of Knutsford, Wirral, Nantwich, Winsford, Middlewich ; Rural Districts of Nantwich, Bucklow, Northwich, Chester.

Colchester : Boroughs of Harwich, Maldon (Essex), Sudbury, Aldeburgh, Eye ; Urban Districts of Braintree and Bocking, Wivenhoe, Saxmundham ; Rural Districts of Cosford, Maldon, Lexden and Winstree, Hartismere.

Coventry : Urban District of Kenilworth ; Rural District of Southam.

Derby : County Borough of Burton-on-Trent ; Borough of Mansfield ; Urban Districts of Arnold, Alfreton, Long Eaton, Warsop, Ripley, Belper, Eastwood, Mansfield Woodhouse ; Rural Districts of Belper, Ashbourne, Southwell.

Doncaster : Borough of Pontefract ; Urban Districts of Dearne, Tickhill, Knottingley, Maltby, Cudworth, Dodworth, Royston, Darfield, Selby, Swinton, Featherstone, Wath-upon-Dearne, Worsborough ; Rural Districts of Selby, East Retford, Thorne.

Exeter : Boroughs of Okehampton, Great Torrington, Totnes, Bideford, Honiton, South Molton ; Urban Districts of Bude Stratton, Budleigh Salterton, Lynton, Ashburton, Axminster, Buckfastleigh, Ottery St. Mary ; Rural Districts of Beaminster, Stratton, Crediton, Torrington, Axminster, South Molton.

Farnborough : Rural District of Andover.

Folkestone : Rural District of Elham.

Gateshead : Urban Districts of Bishop Auckland, Crook and Willington, Ryton.

Gloucester : Rural District of Gloucester.

Grimsby : Urban Districts of Barton-upon-Humber, Alford ; Rural District of Caistor.

Guildford : Rural District of Bagshot.

Huddersfield : County Borough of Dewsbury ; Borough of Todmorden ; Urban Districts of Denby Dale, Hebden Royd, Meltham, Mirfield, Ripponden, Normanton, Heckmondwike, Spenborough, Elland ; Rural District of Hepton.

Kingston-upon-Hull : Borough of Hedon ; Rural District of Driffield.

Leicester : Urban Districts of Wigston, Shepshed, Oakham, Coalville ; Rural Districts of Lutterworth, Blaby, Uppingham, Castle Donnington, Market Harborough, Billesdon.

Lincoln : Borough of Stamford (Lincs) ; Urban Districts of Gainsborough, Spalding ; Rural Districts of Spalding, Barnack, East Kesteven, Newark, South Kesteven, Gainsborough, Isle of Axholme.

Liverpool : Urban District of Ormskirk.

Maidstone : Borough of Queenborough ; Urban District of Sheerness ; Rural Districts of Malling, Swale.

Middlesbrough : Borough of Richmond ; Urban Districts of Loftus, Skelton and Brotton ; Rural Districts of Aysgarth, Startforth, Stokesley, Stockton, Croft, Richmond.

Newcastle : Borough of Morpeth ; Urban Districts of Bedlingtonshire, Alnwick, Prudhoe, Amble, Seaton Valley ; Rural Districts of Rothbury, Norham and Islandshires, Alnwick, Bellingham, Glendale.

Norwich : Boroughs of Thetford, Southwold ; Urban Districts of Downham Market, North Walsham, Wells, Cromer, Sheringham, Halesworth, New Hunstanton, Swaffham, East Dereham ; Rural Districts of Smallburgh, Wainford, Marshland, Erpingham, Mitford and Launditch, Swaffham, Downham.

Oxford : Borough of Buckingham ; Urban District of Thame.

Penrith : Rural Districts of Penrith, Sedbergh.

Plymouth : Urban Districts of Tavistock, Kingsbridge ; Rural Districts of Tavistock, Broadwoodwidger.

Portsmouth : Borough of Newport (Isle of Wight) ; Urban District of Ventnor.

Preston : County Borough of Barrow-in-Furness ; Urban Districts of Leyland, Grange, Carnforth, Withnell ; Rural Districts of Chorley, Blackburn, Lancaster, Ulverston, Garstang.

Reading : Borough of Wokingham ; Rural District of Hungerford.

Rochdale : Borough of Darwen ; Urban Districts of Little Lever, Horwich, Wardle, Lees, Milnrow.

St. Austell : Boroughs of Penryn, Lostwithiel ; Urban District of St. Just.

St. Helens : Boroughs of Widnes, Leigh ; Urban Districts of Aspull, Blackrod, Rainford, Abram, Upholland, Hindley, Ince-in-Makerfield, Billinge and Winstanley, Adlington, Golborne, Orrell, Ashton-in-Makerfield, Haydock, Huyton-with-Roby, Newton-le-Willows ; Rural District of Whiston.

Salford : Urban Districts of Worsley, Irlam, Atherton, Kearsley, Tyldesley.

Sheffield : Urban Districts of Bakewell, Stocksbridge, Hoyland Nether ; Rural Districts of Clowne, Blackwell, Kiveton Park.

Shrewsbury : Borough of Bishops Castle ; Urban Districts of Wellington, Newport, Ellesmere, Church Stretton, Market Drayton, Wem ; Rural Districts of Kington, Drayton, Oswestry, Dore and Bredwardine, Atcham, Clun, Weobley.

Slough : Urban Districts of Eton, Marlow.

Southend : Urban District of Burnham-on-Crouch.

Stepney : City of London.

Stockport : Boroughs of Congleton, Mossley, Hyde ; Urban Districts of Marple, Bollington, Biddulph, Whaley Bridge, Droylesden, Longdendale, Cheadle and Gatley ; Rural Districts of Congleton, Newcastle-under-Lyne, Cheadle (Staffs), Disley, Tintwistle, Leek, Limehurst.

Walthamstow : Rural District of Ongar.

Walsall : Urban Districts of Uttoxeter, Aldridge, Brownhills, Darlaston ; Rural Districts of Uttoxeter, Tutbury.

Weston-super-Mare : Urban District of Burnham-on-Sea ; Rural Districts of Dulverton, Willington, Yeovil.

Wolverhampton : County Borough of Dudley ; Boroughs of Rowley Regis, Stafford, Tipton ; Urban Districts of Stourport-on-Severn, Stone ; Rural Districts of Stone, Bridgnorth, Cannock, Shifnal, Stafford.

York : Urban Districts of Scalby, Pickering, Malton ; Rural Districts of Derwent, Wath, Wetherby, Tadcaster, Northallerton, Scarborough, Pickering, Bedale, Masham, Nidderdale, Thirsk.

NOTES AND NEWS

Honours and Appointments

Mr. A. BRADLEY, solicitor, of Grassendale, Liverpool, has been appointed Clerk to the Justices of Epsom Petty Sessional Division.

Mr. R. SMITH DAWSON, Senior Assistant Solicitor to Cheltenham Corporation, has been appointed Assistant Solicitor to the Wallasey Corporation.

Mr. A. M. FINDLAY, LL.B., solicitor, has been appointed Town Clerk of Wanstead and Woodford in succession to Mr. R. T. Binks, who is retiring at the end of September.

Mr. F. G. SHILLITOE, solicitor, of Hitchin, has been appointed Coroner for the Hitchin district.

Sir GEOFFREY VICKERS, V.C., solicitor, has been appointed to the Committee set up by the Prime Minister to advise on the relationship and organisation of the National Health Service and the health services provided in industry.

Miscellaneous

The Annual General Meeting of the members of The Law Society will be held in the Hall of the Society on Friday, 8th July, 1949, at 2 p.m.

The following are the names of the members of the Council retiring by rotation: Mr. Bateson, Sir Bernard Blatch, Mr. Collins, Sir Douglas Garrett, Sir Alan Gillett, Mr. Ogle, Sir Anthony Pickford, Mr. Smart, Mr. Taylor and Mr. Bevan Thomas. So far as is known, they will be nominated for re-election.

There are three other vacancies, caused by the death of Mr. Curtis and by the resignation of Colonel W. Mackenzie Smith and Sir Geoffrey Vickers.

A course in English Law and Comparative Law for students from overseas will be held at the City of London College from 25th July to 19th August, 1949. Mr. Clive M. Schmitthoff, Barrister-at-Law, is in charge of the course.

The course will give a general survey of the following: The English legal system ; the English courts ; constitutional law ; law of contract ; law of torts ; criminal law ; mercantile law ; conflict of laws ; law of real property and equity. Seminars will be held for the comparison of English and foreign law. A certificate will be awarded to students successful in examinations to be conducted at the end of the course.

Prospectuses can be obtained from The Secretary, City of London College, Moorgate, E.C.2.

SOCIETIES

" Thank you so much. I feel five years younger and could go out and dance ! " That was a letter selected by Sir Douglas T. Garrett, President, to read to the one hundred and thirty-second Annual General Court of THE LAW ASSOCIATION held on 30th May at The Law Society's Hall. It was written by an old lady of seventy-four years of age.

" What do you think she was thanking us for ? " asked Sir Douglas. " She was thanking us for increasing her grant from £52 to £78 a year, or by just 10s. a week. Isn't that very cheap at the price ? I infer from this report that is before you that the directors are not only concerned in keeping body and soul together, and that if they had the funds they would give those poor old ladies a little more than the necessities of life. They want to make their lives still worth living, and to give them at least a small helping of jam to spread on the bread and butter.

" The membership of the Association is now 974, a net increase of thirty-seven during the year. I must say that does not seem to me to be a very laudable achievement for London solicitors as a whole, when one thinks that between five and six thousand London practising certificates are taken out each year. The subscription is one guinea a year, or about the price of two poor quality cigarettes a week. I feel very strongly that this is a charity which the London section of the profession should support in greater measure than at present."

A lively discussion followed and suggestions for increasing both the membership and income of the Association were referred to the directors for consideration.

Officers appointed for the year 1949–50 were : *President*, Sir Douglas T. Garrett ; *Vice Presidents*, The Hon. Sir Malcolm M. Macnaghten, K.B.E., The Rt. Hon. Lord Simonds, P.C., and Sir William Alan Gillett ; *Treasurers*, Mr. G. D. Hugh Jones and Mr. T. L. Dinwiddy ; *Directors*, Messrs. R. A. Butler, R. R. Corfield, C. A. Dawson, D. Drummond, E. Goddard, H. T. Traer Harris, J. C. Medley, S. Hewitt Pitt, M. J. Venning, F. M. Welsford and W. Winterbotham ; *Hon. Auditors*, Mr. P. D. L. Ainslie, Mr. C. L. MacDougall.

At the monthly meeting of the board of directors of the SOLICITORS BENEVOLENT ASSOCIATION, held on 1st June, 1949, forty-seven solicitors were admitted to membership of the Association, twenty practising in London and twenty-seven in the country, bringing the Association's total membership up to 7,402. Mr. Gordon Forbes Higginson, B.A., of London, was elected a director to fill a vacancy on the board.

A sum of £3,451 was distributed in relief to thirty-eight beneficiaries ; of this number two were London solicitors, seventeen the dependants of solicitors who had practised in London, and nineteen were dependants of solicitors who had practised in the country. Annual grants to solicitors and the widows and daughters of solicitors amounted to £3,034. Special grants for expenses incurred as a result of illness and temporary unemployment and for educational purposes amounted to £417.

All solicitors on the Roll for England and Wales are eligible for membership of the Association and are asked to write to the Secretary at 12 Clifford's Inn, Fleet Street, London, E.C.4, for further information. The annual subscription is £1 1s. (minimum) —life membership subscription £10 10s.

The UNION SOCIETY OF LONDON announces that the subject for the Annual Ladies' Night Debate to be held in the Old Hall, Lincoln's Inn at 8 p.m. on Wednesday, 15th June, will be : " That the policy of the Labour Government deserves the active support of this House." The motion will be proposed by Sir Richard Acland, Bart., M.P., and opposed by Commander Gurney Braithwaite, M.P. Admission will be by ticket only. Tickets (price 2s. 6d.) may be obtained from the Hon. Treasurer, 155 Fenchurch Street, E.C.3 (Tel. Mansion House 3953), or from the Hon. Secretary, 9 Old Square, Lincoln's Inn, W.C.2 (Tel. Holborn 3806), or at the door.

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Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).